

FEDERAL BUREAU OF INVESTIGATION  
FOI/PA  
DELETED PAGE INFORMATION SHEET  
FOI/PA# 1350891-0

Total Deleted Page(s) = 9  
Page 15 ~ Referral/Consult;  
Page 16 ~ Referral/Consult;  
Page 17 ~ Referral/Consult;  
Page 18 ~ Referral/Consult;  
Page 31 ~ Referral/Consult;  
Page 32 ~ Referral/Consult;  
Page 33 ~ Referral/Consult;  
Page 34 ~ Referral/Consult;  
Page 35 ~ Referral/Consult;

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X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES GOVERNMENT

# Memorandum

Deleted Copy Sent Michael David Ratner  
by Letter 7/25/75  
Per FOIA Request gib

DATE: 7-26-73

TO : DIRECTOR, FBI

FROM : LEGAT, MEXICO CITY [redacted] (RAC)

SUBJECT: MICHAEL DAVID RATNER  
[redacted]

b3  
b7E

EXP. PROC.

### ENCLOSURES

Enclosed are eight copies of an LHM dated and captioned as above.

### ADMINISTRATIVE

Mexico City indices contain no previous reference identifiable with any of the nine subjects listed in the LHM.

### COPIES

An extra copy of the letter and LHM is furnished the Bureau in the event it is desired to transmit same to Washington Field Office for review of passport file of subject.

Two copies of the letter and LHM are designated for the office covering the place of residence of each subject as indicated in the LHM.

### SOURCE

REC-49 MCT-56

The confidential source abroad mentioned in the enclosure

is [redacted]

- (6) - Bureau (Encs. 8)
  - (1 - Foreign Liaison Desk)
  - (2 - New York City)
- 1 - Mexico City

JJO:ffs  
(7)

ENCLOSURE

8717  
AUG 2 1973

b3  
b7E  
b7D

Copy to [redacted] by routing slip for  
 info  action  
date 8-15-73  
VHN / RDM

198  
AUG 27 1973

notice of declassification sent AAG (2) by 0-6, State by 0-147, [redacted] 640-147 VHN-AP 7-17-73

Notice of declassification sent [redacted] by 0-6, State by 0-147, VHN-AP



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CLASSIFICATION

The enclosed LHM is ~~classified confidential~~ to protect the source.





UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

~~CONFIDENTIAL~~  
~~CONFIDENTIAL~~  
211 7/17/75

Washington, D. C.  
July 26, 1973

MICHAEL DAVID RATNER

On June 26, 1973, a confidential source abroad advised that a group of nine United States citizens traveling as a party were passengers aboard the Cubana Airlines flight of June 15, 1973, from Mexico City, Mexico, to Havana, Cuba. The source pointed out that eight of these nine individuals were indicated to be attorneys by occupation.

The source furnished the following descriptive information concerning these subjects.

- (1) [redacted] age 37, born in [redacted] Washington, married, an attorney, resident at [redacted] United States Passport Number [redacted]

b6  
b7C

This individual was also indicated as possibly being known as [redacted] with United States Passport [redacted].

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- (2) [redacted] age 42, born in New York, an attorney, resident at [redacted] [redacted], United States Passport [redacted]

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b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

~~CONFIDENTIAL~~  
~~CONFIDENTIAL~~  
DECLASSIFIED BY 211 7/17/75

[redacted]  
CLASSIFIED BY [redacted]  
EXEMPT FROM [redacted]  
SCHEDULE [redacted] - ENCLOSURE 11652  
EXEMPTION [redacted] Indefinite

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b7C

~~CONFIDENTIAL~~

200 7/17/73

MICHAEL DAVID RATNER:

- (3) [redacted] age 41, born in New Jersey, employed in home, resident at [redacted] United States Passport [redacted] b6 b7C
- (4) [redacted] female, age 30, born in [redacted] New York, married, an attorney, resident at [redacted] United States Passport [redacted] b6 b7C
- (5) [redacted] age 28, born in [redacted] Massachusetts, single, an attorney, resident at [redacted] United States Passport [redacted] b6 b7C
- (6) [redacted] age 27, born in [redacted] New York City, single, an attorney, resident at [redacted] United States Passport [redacted] b6 b7C
- (7) [redacted] age 30, born in [redacted] Maryland, single, an attorney, resident at [redacted] Pennsylvania, United States Passport [redacted] b6 b7C
- (8) [redacted] age 35, born in New York, married, an attorney, resident at [redacted] United States Passport [redacted] b6 b7C
- (9) Michael David Ratner, age 30, born in Cleveland, Ohio, married, an attorney, resident at 299 Riverside Drive, New York City, United States Passport D276219.

The confidential source advised there was no indication that any of these individuals had been issued Mexican re-entry permits which are normally obtained by a United States citizen, enabling him to return to Mexico from Cuba, if he has United States State Department approval of his Cuban travel. The source stated that lacking such re-entry permit the United States citizen would have to return to the United States from Cuba by a third country other than Mexico.

~~CONFIDENTIAL~~

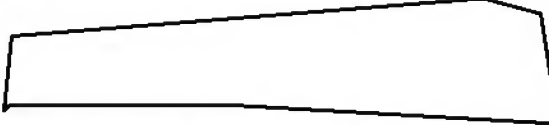
200 7/17/73

ST-103

July 30, 1975


b3  
b7E

REC 68





Mr. Michael Ratner  
Attorney at Law  
351 Broadway  
New York, New York 10013

Dear Mr. Ratner:

This is in reference to your letter to the 

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 in response to your Freedom of Information Act request, the  referred to the FBI a document that originated in the Federal Bureau of Investigation. I am enclosing herewith an excised copy of that document.

b7E

Portions of this document are exempt from release under the Freedom of Information Act pursuant to Title 5, United States Code, Section 552, subsection (b) (7) (C), which exempts information, the disclosure of which, would constitute an unwarranted invasion of personal privacy of third parties, and (b) (7) (D), which exempts information which would disclose the identity of and information furnished by sources pursuant to assurance of confidentiality.

You have thirty days from receipt of this letter to appeal to the Attorney General from any denial contained herein. Appeals should be directed in writing to the Attorney General (Attention: Freedom of Information Appeals Unit), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Following the Attorney General's decision, judicial review is available in the district of your residence or principal place of business, or in the District of Columbia, where the records are situated.

Sincerely yours,

E. M. Kelley

Clarence M. Kelley  
Director

Enclosure  
1 - The Deputy Attorney General  
Atten: Susan M. Hauser

SEE NOTE NEXT PAGE

MAILED  
JUL 30 1975  
FBI

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Admin. \_\_\_\_\_
- Comp. Syst. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Files & Com. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Inspection \_\_\_\_\_
- Intell. \_\_\_\_\_
- Laboratory \_\_\_\_\_
- Plan. & Eval. \_\_\_\_\_
- Spec. Inv. \_\_\_\_\_
- Training \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director Sec'y \_\_\_\_\_

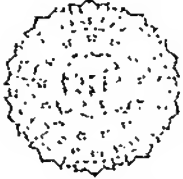
MAIL ROOM  TELETYPE UNIT

Mr. Michael Ratner

b3  
b7E

NOTE: [redacted] referred a FBI document dated 7/26/73 for review. This document is the only serial in [redacted] Requester, Michael Ratner, is being furnished an excised copy of this document.





UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

*In Reply, Please Refer to  
File No.*

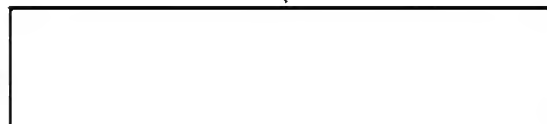
Washington, D. C.  
July 26, 1973

MICHAEL DAVID RATNER

a group of nine United States citizens traveling as a party were passengers aboard the Cubana Airlines flight of June 15, 1973, from Mexico City, Mexico, to Havana, Cuba.

b3  
b7E

ENCLOSURE



MICHAEL DAVID RATNER:

- (9) Michael David Ratner, age 30, born in Cleveland, Ohio, married, an attorney, resident at 299 Riverside Drive, New York City,

NUMEROUS REFERENCE

SEARCH SLIP

Subj: Michael Ratner

Supervisor \_\_\_\_\_ Room \_\_\_\_\_

R# \_\_\_\_\_ Date 7/10 Searcher Initials [Signature]

Prod. \_\_\_\_\_

FILE NUMBER

SERIAL

100-483046-2

[Redacted]

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b7E

Search Complete



Federal Bureau of Investigation  
Records Section

FOIA

7/9

19 75

Name Searching Unit, 4543 JEH-FBI Bldg.

~~Name Searching Unit, 4654 JEH-FBI Bldg.~~

Forward to File Review

Attention

Return to

[Redacted] b6  
[Redacted] 5438-5561 b7C  
Supervis Room Ext.

Type of References Requested:

- Regular Request (Analytical Search)
- All References (Subversive & Nonsubversive)
- Subversive References Only
- Nonsubversive References Only
- Main \_\_\_\_\_ References Only

Type of Search Requested:

- Restricted to Locality of \_\_\_\_\_
- Exact Name Only (On the Nose)
- Buildup  Variations

FBI memo dated 7/26/73  
from Washington, D.C.

Subject Michael Ratner

Birthdate & Place \_\_\_\_\_

Address New York, New York

Localities \_\_\_\_\_

R# \_\_\_\_\_ Date 7/10/75 Searcher Initials JEX

Prod. \_\_\_\_\_

FILE NUMBER SERIAL

[Redacted]	- JASUA	b7E
[Redacted]	- NRSUA	
INC fr WFO	- NRSUA	

From  
Director  
Federal Bureau of Investigation

JUL 17 1975

To:

Date

 The Attorney General RE: The Solicitor General The Deputy Attorney General Analysis & Evaluation Unit Assistant Attorney General Antitrust Division Criminal Division (DOJ) Civil Division Internal Security Section Civil Rights Division General Crimes Section Office of Legislative Affairs Special Litigation Unit Office of Legal Counsel Registration Unit Director, U. S. Marshals Service Director, Bureau of Prisons The Pardon Attorney Assistant Attorney General for Administration Immigration and Naturalization Service Drug Enforcement Administration Law Enforcement Assistance Administration Director, Management Programs and Budget Staff Director, Administrative Services Programs Staff Director, Personnel and Training Staff Director, Department Security Staff General Litigation Section, Civil Division Community Relations Service A. No further action will be taken in this case in the absence of a specific request from you. B. Please advise what further investigation, if any, is desired in this matter. C. For your information, I am enclosing a communication regarding the holder of a diplomatic or international organization visa. D. For your information. E. Please note change in caption of this case. F. Pursuant to your inquiry, attached information is being furnished. G. Investigation is continuing. H.**SEE REVERSE SIDE.**

cc:  Attorney General  
 Deputy Attorney General  
 Analysis & Evaluation Unit  
 Antitrust Division  
 Civil Division  
 Civil Rights Division

Criminal Division  
 Int. Sec. Section  
 General Crimes Section  
 Special Litigation Unit  
 Registration Unit

Enc.

Bufile:

REFERENCE FBI MEMORANDUM DATED 1/26/73  
CONCERNING MICHAEL DAVID RATNER, ~~CLASSIFIED~~  
~~CONFIDENTIAL~~. THIS MEMORANDUM HAS BEEN  
DECLASSIFIED.

From  
Director  
Federal Bureau of Investigation

Date JUL 17 1975

To:

 The Attorney General RE: The Solicitor General The Deputy Attorney General Analysis & Evaluation Unit Assistant Attorney General Antitrust Division Criminal Division (DOJ) Civil Division Internal Security Section Civil Rights Division General Crimes Section Office of Legislative Affairs Special Litigation Unit Office of Legal Counsel Registration Unit Director, U. S. Marshals Service Director, Bureau of Prisons The Pardon Attorney Assistant Attorney General for Administration Immigration and Naturalization Service Drug Enforcement Administration Law Enforcement Assistance Administration Director, Management Programs and Budget Staff Director, Administrative Services Programs Staff Director, Personnel and Training Staff Director, Department Security Staff General Litigation Section, Civil Division Community Relations Service A. No further action will be taken in this case in the absence of a specific request from you. B. Please advise what further investigation, if any, is desired in this matter. C. For your information, I am enclosing a communication regarding the holder of a diplomatic or international organization visa. D. For your information. E. Please note change in caption of this case. F. Pursuant to your inquiry, attached information is being furnished. G. Investigation is continuing. H.**SEE REVERSE SIDE.**

cc:  Attorney General  
 Deputy Attorney General  
 Analysis & Evaluation Unit  
 Antitrust Division  
 Civil Division  
 Civil Rights Division

Criminal Division  
 Int. Sec. Section  
 General Crimes Section  
 Special Litigation Unit  
 Registration Unit

Enc.

Bufile:



JUL 17 1975

## Federal Bureau of Investigation

Director  
 Bureau of Intelligence and Research  
 Department of State  
 Washington, D. C. 20520

1. For your information, I am enclosing ~~communications which may be of interest to you.~~
2. It will be appreciated if you will have the investigation conducted as requested in the enclosed memorandum and furnish the results.
3. No further investigation is contemplated with regard to this matter.
4. You will be advised of the pertinent developments in connection with this inquiry.
5. Please note change in caption of this case.
6. Status of case:     Completed             Incomplete

Director  
 Federal Bureau of Investigation

**REFERENCE FBI MEMORANDUM DATED 7/26/73  
 CONCERNING MICHAEL DAVID RATNER, ~~CLASSIFIED~~  
~~CONFIDENTIAL~~. THIS MEMORANDUM HAS BEEN  
 DECLASSIFIED.**

Enc.

JUL 17 1975

## Federal Bureau of Investigation



b7E

ATTENTION: Deputy Director for Operations

1. For your information, ~~I am enclosing communications which may be of interest to you.~~
2. It will be appreciated if you will have the investigation conducted as requested in the enclosed memorandum and furnish the results.
3. No further investigation is contemplated with regard to this matter.
4. You will be advised of the pertinent developments in connection with this inquiry.
5. Please note change in caption of this case.
6. Status of case:     Completed             Incomplete

Director  
Federal Bureau of Investigation

REFERENCE FBI MEMORANDUM DATED 7/26/73  
CONCERNING MICHAEL DAVID RATNER, ~~CLASSIFIED~~  
~~CONFIDENTIAL~~. THIS MEMORANDUM HAS BEEN  
Enc ~~DECLASSIFIED~~.

TO: SAC:

- Albany
- Albuquerque
- Alexandria
- Anchorage
- Atlanta
- Baltimore
- Birmingham
- Boston
- Buffalo
- Butte
- Charlotte
- Chicago
- Cincinnati
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit
- El Paso
- Honolulu
- Houston
- Indianapolis
- Jackson
- Jacksonville
- Kansas City
- Knoxville
- Las Vegas
- Little Rock
- Los Angeles
- Louisville
- Memphis
- Miami
- Milwaukee
- Minneapolis
- Mobile
- Newark
- New Haven
- New Orleans
- New York City
- Norfolk

- Oklahoma City
- Omaha
- Philadelphia
- Phoenix
- Pittsburgh
- Portland
- Richmond
- Sacramento
- St. Louis
- Salt Lake City
- San Antonio
- San Diego
- San Francisco
- San Juan
- Savannah
- Seattle
- Springfield
- Tampa
- Washington Field
- Quantico

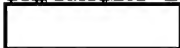
TO LEGAT:

- Beirut
- Bern
- Bonn
- Brasilia
- Buenos Aires
- Caracas
- Hong Kong
- London
- Madrid
- Manila
- Mexico City
- Ottawa
- Paris
- Rome
- Singapore
- Tel Aviv
- Tokyo

RE:

Date JUL 17 1975

**MICHAEL DAVID RATNER**



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b7E

- For information  Retention optional  For appropriate action  Surep, by \_\_\_\_\_
- The enclosed is for your information. If used in a future report,  conceal all sources,  paraphrase contents.
- Enclosed are corrected pages from report of SA \_\_\_\_\_ dated \_\_\_\_\_.

Remarks:

**RE MEX LET 7/26/73 WITH ENCL.  
THE ENCL. WAS DECLASSIFIED BY  
2111 ON 7/17/75**

Enc.  
Bufile  
Urfile



*md*  
ADDENDUM INTELLIGENCE DIVISION 7/17/75 VHN:jmr

[redacted] This is letter from Legat, Mexico, <sup>b3</sup>  
dated 7/26/73 with enclosure concerning the travel of several <sup>b7E</sup>  
individuals to Cuba including that of the subject. The enclosure  
which was classified "Confidential" has been declassified.

Interested agencies and Bureau offices have been  
advised.

Total Agent time expended in this review was one hour.

*EP/SSM*

*f*

SEP 11 1975

Assoc. Dir.	_____
Dep.-A.D.-Adm.	_____
Dep.-A.D.-Inv.	_____
Asst. Dir.:	_____
Admia.	_____
Comp. Syst.	_____
Ext. Affairs	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Inspection	_____
Intell.	_____
Laboratory	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Legal Coun.	_____
Telephone Rm.	_____
Director Sec'y	_____

Mr. Michael Ratner  
 299 Riverside Drive  
 New York, New York 10025

Dear Mr. Ratner:

This is to advise you that your administrative appeal to the Deputy Attorney General from the denial by Clarence M. Kelly, Director, Federal Bureau of Investigation, of your request under the Freedom of Information Act for information from the files of the Department of Justice was received by this Unit on August 21, 1975.

Because this Unit has a substantial backlog of pending appeals and a shortage of attorneys, we have adopted a general policy, in an attempt to afford each appellant equal and impartial treatment, of assigning appeals to Unit attorneys in the order of receipt. Your appeal is number 771. Appeals through number 375 have been assigned and are currently being processed.

Every effort will be made to comply with the time limits set forth in the Act. If it becomes impossible for us to complete the processing of this appeal within that time frame, you will be notified of that fact.

EX 103

REC-30  
 Sincerely,

[Redacted Signature Area]

5 SEP 18 1975

RICHARD M. ROGERS, Deputy Chief  
 Freedom of Information Appeals Unit

cc made  
 FOIA Litigation  
 9/17/75 JH

cc made [Redacted]

cc: Federal Bureau of Investigation

8-11-75 11:12

572077

b3  
 b7E

b7E

MARGARET RATNER  
MICHAEL RATNER  
ATTORNEYS AT LAW  
351 BROADWAY  
NEW YORK, N. Y. 10013  
(212) 431-4118

RECEIVED  
OFFICE OF THE  
AUG 21 11 46 AM '75  
DEPUTY  
ATTORNEY GENERAL

August 19, 1975

Attorney General  
Freedom of Information Appeals Unit  
Washington, D.C. 20530

Dear Sir:

This is an appeal pursuant to subsection  
(a)(6) of the Freedom of Information Act (5 U.S.C. §552).

On August 4, 1975, I received a letter from  
Clarence Kelley, Director of the Federal Bureau of  
Investigation, denying certain of my requests for  
disclosure of information.

Initially, I wrote a Freedom of Information  
Act request to the [redacted]  
Apparently, one of the documents in their files  
was an F.B.I. document and for this reason the  
F.B.I. answered part of my request. I am enclosing  
a copy of my exchange with your agencies so that  
you can see the insubstantial grounds on which my  
request was rejected.

I received from the F.B.I. the annexed 2  
page document which contains numerous deletions with  
regard to information compiled about myself. Substantially  
all of the document is deleted.

The reasons given for the deletions are not  
in accord with the statute which exempts certain portions  
of documents from release. The letter cites subsections  
(b)(7)(c) and (b)(7)(d) and states that disclosure  
would invade the privacy of third parties and the  
identity and information furnished by sources promised  
confidentiality. These reasons are facially insufficient.

The statute provides that these subsections come  
into operation only if the records constitute "investigatory  
records compiled for law enforcement purposes."  
Nowhere in the letter is it mentioned that the records  
contained in the two page document were compiled for  
that reason. Thus, it appears that improper criteria  
were employed in denying me access to the documents.

I, also, cannot believe that virtually the  
entire document was deleted and that this constitutes  
[redacted]

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b7E

Attorney General  
Freedom of Information Appeals Unit  
August 19, 1975  
page 2.

compliance with providing me "any reasonably segregable portion."

I believe that the agency personnel who made the determination acted arbitrarily and capriciously and that under no circumstances can it be said that the information I requested is covered by the exemptions contained in subsections (b)(7)(C) and (b)(7)(D) of the Act.

This information is of particular importance to me because of my profession as an attorney. The materials compiled by the F.B.I. may have substantially affected the Sixth Amendment rights of my clients as well as interfered with the attorney-client privilege. For this reason extremely careful consideration should be given prior to exempting documents from disclosure.

As provided for in the Act, I will expect to receive a reply within 20 working days.

Unless you order the release of the requested information, I will commence a lawsuit to compel its disclosure.

Very truly yours,

  
MICHAEL D, RATNER

Encl.

MDR:smb



UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI- [redacted]

DATE: 7-7-76

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b7E

FROM: *SW/kr* LEGAT, MEXICO CITY [redacted]

*pl 9-End 1*

SUBJECT: TRAVEL MATTERS - CUBA  
[redacted]

## ENCLOSURES

*to*

Enclosed are ten copies of a letterhead memorandum dated and captioned as above, concerning the travel to Cuba by MICHAEL RATNER

Two copies of the enclosed LHM are for dissemination to the field offices receiving copies of this letter.

## ADMINISTRATIVE

Indices; Mexico City, area ( ) Negative  
(x) Positive (See Below)

## SOURCE

[redacted] on 4-19-76

b7D

All pertinent information previously disseminated on above named individual.

*cc: [redacted] (255), State [redacted] EX-11 REC-59  
USSS, 2-ny (copy)  
"rc" mes let 7/26/73"  
RTC-yn  
7/26/76*

6 - Bureau. (Enc. 10) ---  
(1 - Foreign Liaison Unit) ---  
(2 - New York) ---

[redacted]

JUL 15 1976

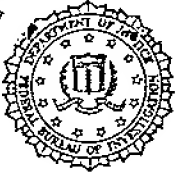
b3  
b7E

ENCLOSURE

2 - Mexico City (1 - [redacted])



JUL 27 1976 F487



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

In Reply, Please Refer to  
File No.

July 7, 1976

TRAVEL MATTERS - CUBA

A source who has furnished reliable information in the past advised that the following named United States citizen traveled by air from Mexico City to Havana, Cuba, with no evidence of United States Department of State authorization for the travel:

Name: <sup>(i)</sup> ~~Michael Ratner~~

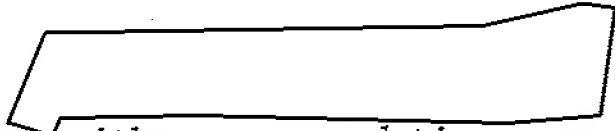
B. APPROX 1944

Birth Data: Age 32, born at Ohio

Residence: 322 Central Park West, New York, New York

Passport Number: D1278219

Date of Travel: April 18, 1976



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This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

ENCLOSURE

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/26/2005

MICHAEL D. RATNER, date of birth June 13, 1943, Social Security Account Number 298-38-3357, was interviewed at the New York Field Office of the Federal Bureau of Investigation (FBI). Also present at the interview was

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[redacted] After being advised of the identity of the interviewing agents, RATNER voluntarily provided the following information:

RATNER has been the president of the Center for Constitutional Rights (CCR) for approximately two and a half years. He previously taught law at Columbia and Yale Law Schools, respectively. RATNER could not recall the exact date, but indicated sometime after [redacted]

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b7C

[redacted] showed him a red envelope that contained a [redacted] card. RATNER believed there was a chance that he touched the envelope as well as the documents. The card contained slips of paper (cut-up document) that appeared to

[redacted] printed on them. [redacted] brought the card and the cut-up document to RATNER for advice. [redacted] objected to the FBI's question of specifically what RATNER and [redacted] discussed about the cut-up documents on the grounds of "attorney-client privilege." The FBI did not press this question.

RATNER indicated that he called a lawyer with experience in the area for advice as to what [redacted] should do with the cut-up document. After speaking with the lawyer, RATNER spoke to [redacted] to relay the advice that he received. As noted above, specifics were not provided. RATNER later found out that "agents" had come to the office and picked up the card and the cut-up document. The "agents" put the card and the cut-up document in a bag before departing the office.

*(Handwritten mark)*  
b6  
b7C

RATNER heard that a copy of the cut-up document was made, but never actually saw this copy version. RATNER could not provide details as to who made the copy, or if this copy was destroyed. RATNER did not know what had happened with the

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b7E  
b6  
b7C

Investigation on 05/24/2005 at New York, New York

File # [redacted]  
SA [redacted]  
by SA [redacted] jc

Date dictated Not Dictated

*(Handwritten notes)*  
17  
10  
6/1/05

[REDACTED]

b3  
b7EContinuation of FD-302 of MICHAEL D. RATNER, On 05/24/2005, Page 2

copy. RATNER did not know if notes were retained by CCR employees concerning the cut-up document. RATNER had no information on the destruction of the copied document.

RATNER was unaware of any personal contacts that [REDACTED] RATNER indicated that he did not know who sent this cut-document to [REDACTED]. To his knowledge, there had been no further contact between the anonymous sender of cut-up document and any CCR employee.

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b7C

At the conclusion of the interview, RATNER voluntarily provided himself for "exclusionary" fingerprints. RATNER's fingerprints were collected and maintained as evidence. RATNER requested that the fingerprints be returned to him at the conclusion of the investigation.

~~4/28/06~~  
4/28/06  
4/28/06

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**PRACTITIONER:** How We Closed the **Guantanamo** HIV Camp: The Intersection of Politics and Litigation

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**BIO:**

\* J.D., Columbia Law School, 1970. Michael ~~Ratner~~ is an international human rights attorney who works with the ~~Center for Constitutional Rights in New York City~~. He was one of the lawyers for the Haitians detained at the U.S. Naval Base, **Guantanamo** Bay, Cuba. At the time of the litigation described in this Article, he and Professor Harold Koh were co-teaching the Lowenstein Human Rights Clinic at Yale Law School. The litigation arose out of work with the clinic. The author wishes to thank Harold Koh, a tenacious and brilliant litigator, as well as Sara Miles, Lisa Daugaard, Michael Wishnie, and William Broberg for their helpful comments on this Article.

**SUMMARY:**

... For over a year and a half, from 1991 to 1993, the United States government ran a special detention camp, Camp Bulkely, at its Naval Base in **Guantanamo** Bay, Cuba. ... It wanted **Guantanamo** available as a refugee-processing center, where the United States Constitution did not apply, and where aliens had no claims to due process. ... We argued that: (1) the medical care was inadequate; (2) the Haitians were entitled to due process protections prior to any determination that could send them back to Haiti; (3) continued confinement constituted indefinite detention; (4) requiring the second well-founded fear determination on **Guantanamo** was unauthorized by law; (5) the Attorney General had abused her parole authority; and (6) barring lawyers from the Haitian Service Organizations from the camp violated the First Amendment. ... Although I do not think the overall decision to fight the HIV ban in Congress instead of the courts was correct, in retrospect, I think we followed the correct strategy by deciding to litigate the due process/attorney issue first rather than directly attacking the HIV exclusion and the very existence of the camp. ... The night Bill Clinton was elected President there was great joy in the **Guantanamo** refugee camp. ... This worked for a while, but eventually their hope evaporated, and the Haitians took the situation into their own hands and went on the hunger strike. ...

**HIGHLIGHT:**

Fortunately, there's an alternative model to relations with the Clinton White House: the legal and grass-roots campaign to free Haitian refugees at **Guantanamo**. As soon as Clinton's betrayal was evident, their advocates organized demonstrations, petitions and media blitzes on campuses and in communities around the country. The result: When U.S. District Judge

Sterling Johnson Jr. ordered President Clinton to do what candidate Clinton had promised, the administration was left with little alternative but to abandon any appeal. <sup>1</sup>

**TEXT:****[\*187]** INTRODUCTION

For over a year and a half, from 1991 to 1993, the United States government ran a special detention camp, Camp Bulkely, at its Naval Base in **Guantanamo** Bay, Cuba. In one sense, the camp represented just another episode in the sad global epic of the denial of refugee rights that fills our century. But the **Guantanamo** camp was unique; its 310 Haitian men, women, and children were prisoners in the world's first and only detention camp for refugees with HIV. <sup>2</sup>

As co-counsel, <sup>3</sup> I was part of the struggle to free the Haitians and shut down the **Guantanamo** HIV camp. Our litigation was successful. **[\*188]** On June 8, 1993, Judge Sterling Johnson, Jr. ordered the closure of the camp and the release of the Haitian refugees imprisoned there. <sup>4</sup> Legal advocacy was crucial in fighting the **Guantanamo** camp, and the case is relevant to broader issues in refugee and international human rights law. <sup>5</sup>

This Article analyzes the project to close the camp, and does not focus solely on the court decisions and legal arguments. In Part I, I briefly explain how the **Guantanamo** HIV camp came into being. In Part II, I discuss the development of our legal claims and our attempts to avoid perceived difficulties surrounding the HIV issue. In Part III, I examine the political context surrounding our legal strategy. In particular, I examine how our hope that President Clinton would close the camp after his election in 1992 affected the litigation. In Parts IV and V, I detail the subtle and challenging issues raised by what I term the "inside" lobbying strategy and "outside" organizing and agitation strategy. The victory was not exclusively a legal one, but depended on the intersection of litigation with political action of many different **[\*189]** kinds. I do not mean to suggest, however, that we <sup>6</sup> had a carefully preplanned political "strategy"; a great deal of our political work happened under crisis conditions. Internal debates about tactics -- and about the relative advantages of an inside versus an outside strategy -- continued vigorously throughout the process. Finally, in Part VI, I discuss some of the lessons learned and express my hope that human rights advocates benefit from a careful analysis of our strategies, our mistakes, and our process.

**I. THE DEVELOPMENT OF THE GUANTANAMO HIV CAMP**

On September 30, 1991, a military coup overthrew Haiti's first democratically elected President, Jean Bertrand Aristide. In the bloodbath that followed, the military may have killed as many as three thousand Haitians. <sup>7</sup> Under the new regime, supporters of the over-thrown President and those expressing opposition to the coup were killed, tortured, jailed, and beaten. <sup>8</sup> The coup and its subsequent terror created a wave of refugees. <sup>9</sup> In vessels barely seaworthy, thousands sailed into the high seas hoping to make the 600-mile journey to southern Florida or other landfall where they would be safe. <sup>10</sup> The majority, however, were stopped at sea by United States Coast Guard cutters patrolling the passage between Haiti and Cuba. These Haitians were taken aboard the Coast Guard ships and placed in custody for processing by the Immigration and Naturalization Service (INS). <sup>11</sup>

**[\*190]** This was not the first interdiction of Haitian refugees by the United States Coast Guard, nor the first massive encounter between Haitian refugees and the INS. <sup>12</sup> In 1981, when thousands of Haitians attempted to flee the dictatorship of "Baby Doc" Duvalier, the United States signed an agreement with Haiti allowing United States ships to stop Haitian-flagged vessels and forcibly return the people on board to Haiti. <sup>13</sup> However, under this harsh agreement and the executive order implementing it, the United States agreed to obey its international obligation not to return those refugees "who genuinely flee persecution in their homeland" <sup>14</sup> and to interview the Haitians on board the cutters to determine their status.

Those found to have a credible fear of political persecution would be screened in and brought to the United States. <sup>15</sup> These asylum-seekers could win political asylum if they established, in further hearings, a "well-founded fear of persecution." <sup>16</sup>

For ten years the screening procedure was honored in word more than deed. Of the 24,600 Haitians interdicted by the United States Coast Guard between 1981 and 1991, only eleven people were screened in and brought to the United States for asylum hearings. <sup>17</sup>

In the immediate aftermath of the 1991 coup, United States policy changed abruptly. For approximately two weeks, the INS brought all interdicted Haitians to the United States, where they could apply for asylum. Then, in mid-November 1991, the practice changed again. <sup>18</sup> Although political violence and terror continued unabated in Haiti, <sup>19</sup> refugees were no longer automatically brought to the United States. The INS resumed on-board screening of Haitians in order to determine who, in its view, had a credible fear of persecution. <sup>20</sup>

[\*191] Almost immediately after the "screen and return" policy went into effect, a well-known refugee advocate, Miami attorney Ira Kurzban, filed suit on behalf of the Haitian Refugee Center against the INS and other United States agencies to enjoin the government from returning any refugees to Haiti. Hasty, on-board interviews of terrified and exhausted survivors pulled from the sea were likely to result in unreliable judgments about who could be safely repatriated. <sup>21</sup> Consequently, Kurzban and other observers believed the latest procedure would result in most of the refugees being forcibly returned to Haiti. <sup>22</sup> The district court in Miami repeatedly enjoined the United States from returning the refugees, <sup>23</sup> but the Eleventh Circuit reversed each injunction. <sup>24</sup>

Coast Guard cutters lacked the space to hold the thousands of refugees while the injunctions were blocking repatriation. Rather than bring the Haitians into the United States, the INS transported all of them -- those "screened in" (those who passed the credible fear test) and those "screened out" (those who failed the credible fear test and, but for the injunction, would have been returned to Haiti) -- to the United States Naval Station at **Guantanamo Bay, Cuba.** <sup>25</sup>

From the government's point of view, **Guantanamo Bay** had a number of advantages over other sites. Its thirty-one square miles of land provided a site large enough for the thousands of refugees. <sup>26</sup> The [\*192] location of the base would avoid many political problems the administration might otherwise have faced if it brought thousands of Haitians to the United States, particularly in an election year. **Guantanamo** was outside the United States, and it was only accessible with the permission of United States military authorities. The inaccessibility of the base would prevent news reporters and others from scrutinizing the treatment of the Haitians. Additionally, the government could argue that the refugees would have no legal rights on **Guantanamo.** It could claim that the United States Constitution did not protect foreign nationals outside the country <sup>27</sup> and that refugees could not apply for the protection of political asylum until they set foot in the United States. <sup>28</sup>

Ira Kurzban's attempt to win better processing for the refugees came to an end on February 24, 1992, when the Supreme Court refused to hear an appeal from the Eleventh Circuit decision dismissing his case, *Haitian Refugee Center v. Baker.* <sup>29</sup> The INS now had a free hand to repatriate thousands of Haitian refugees who had been held on **Guantanamo.** It began to do so immediately, returning screened-out refugees to Haiti and bringing screened-in refugees to the United States -- or so the government said at the time, <sup>30</sup> and so we believed.

## [\*193] II. LEGAL STRATEGY AND THE IMPACT OF HIV

At the Lowenstein Human Rights Clinic at Yale, we had an ongoing interest in Haiti and the plight of the refugees. We had brought an earlier case against the former Haitian dictator,



Prosper Avril, under the Alien Tort Claims Act, 28 U.S.C. § 1350, in which we sued him for the torture of a number of Haitian opposition figures and recovered a substantial judgment.<sup>31</sup> As a result, we were quite familiar with the Haitian political landscape. We had personal ties to a number of the democratic leaders endangered by the coup, and we were anxious to help. Most of us did not look at the litigation as a test case; we simply wanted to save as many refugees as possible by protecting them from forced repatriation.

When we began planning litigation in February 1992, our plan was to assert that the United Nations Protocol on Refugees, which the United States had ratified,<sup>32</sup> applied to Haitians picked up on the high seas. The Protocol mandated that persons fleeing political persecution could not be returned to a country where they faced such persecution. Although Ira Kurzban had raised and lost a similar issue in the Eleventh Circuit, we hoped to get a different result in the Second Circuit. This result would create a split in two federal appeals courts and practically require the Supreme Court to review the case.

The members of our legal team had different expectations about the ultimate result of our efforts. Some of us actually expected to get the case to the Supreme Court and to win. I thought we might get it to the Court, but I was sure we would lose. Still, I felt it was important to litigate the case, since it would keep the issue of Haitian refugees in the news. Under this "spotlight" strategy, the precise legal issues raised and legal theories used were not as important as judicial and public scrutiny of the government's treatment of Haitian refugees. One of our concerns was to keep the screen-in rate high and to raise the percentage of Haitians interviewed at **Guantanamo** who would be permitted to come to the United States. We knew that, while litigation was pending in the Eleventh Circuit, the screen-in rate had increased dramatically.<sup>33</sup> Our fear, which proved justified, was that without such litigation and consequent public attention, the screen-in rate would drop significantly. We wanted to get into court on any justifiable claim in order to keep the spotlight shining.

[\*194] At this time, we did not know that the INS was starting to single out HIV-positive Haitian refugees, and thus we had not focused our attention on this particular section of the refugee population. We were concerned with the rights of all Haitian refugees, and we wanted to prevent as many as possible from being forcibly repatriated to Haiti. We soon realized, however, that we could not raise the same issues that were decided in *Haitian Refugee Center v. Baker*<sup>34</sup> without serious, if not insurmountable, *res judicata* problems. *Baker* had been brought as a class action on behalf of all Haitian refugees who, now or in the future, would flee Haiti. Consequently, all Haitian refugees similarly situated to those in *Baker* were bound by the Eleventh Circuit's judgment. If we had litigated a similar suit on behalf of the same plaintiffs, we would have not only faced dismissal but the possibility of sanctions from the court.

We did, however, have some claims that were not foreclosed by the *Baker* case. A number of the claims raised in *Baker* were not brought as class actions. These included a claim of a First Amendment right of association by United States relatives of the Haitians on **Guantanamo**, a claim of a right of United States-based Haitian organizations to associate with and counsel their clients, and a claim of a right of attorneys in the United States to counsel Haitian clients. With different plaintiffs we could again litigate these claims. While the *Baker* case was an unfavorable precedent, it did not seem to raise a *res judicata* obstacle for our new set of plaintiffs.<sup>35</sup> Although favorable outcomes on these claims would not alone have stopped repatriation, litigation would end some of the secrecy surrounding the refugees' treatment at **Guantanamo** and could also have a salutary effect on the screen-in rate.

As we were preparing our papers in early March 1992, we became aware of a new issue that allowed us to seek immediate injunctive relief and which became the bedrock of our litigation for almost eighteen months. Certain refugees at **Guantanamo** were being treated differently than the others. Some of them, as had been the case during the *Baker* litigation, were allowed to enter into the United States as asylum-seekers if they met the credible fear

standard. However, other refugees -- we did not know exactly which ones -- were being required to undergo a second interview in order to determine whether or not they [\*195] met a higher well-founded fear standard after being screened in. It was unclear if this second group of refugees would be allowed into the United States even after passing the second screening.

The requirement that certain refugees had to undergo a second interview on **Guantanamo** was contrary to what the United States government had represented to the Supreme Court in opposing a grant of certiorari in *Baker*. Although the government had said that all screened-in Haitians would be brought to the United States where they could pursue asylum claims,<sup>36</sup> it was now reneging on its promise. Thus, a class of Haitians emerged which was different than those represented in *Baker* -- the screened-in Haitians who were not taken to the United States but were forced to undergo a second interview. While this issue would not attack repatriation in general, it seemed an effective way to get into court and focus attention on the treatment of the refugees.

A few days before we were to go to court we found out whom the INS was processing differently. All screened-in Haitian refugees were being tested for HIV. Those who tested positive were interviewed again and required to meet the higher standard before being permitted to enter the United States.<sup>37</sup> These allegedly HIV-positive "immigrants" and their children were separated from the rest to await further processing.<sup>38</sup> Thus was established the world's first HIV detention camp.<sup>39</sup>

The evening prior to filing our case we obtained a copy of the government memorandum explaining the claimed legal basis for its differential treatment of allegedly HIV-positive Haitians. The government justified differential treatment by pointing to regulations that barred HIV-positive immigrants from applying for admission to the United States from third countries unless the immigrants first obtained a waiver of the HIV exclusion.<sup>40</sup> This HIV exclusion, however, did not [\*196] apply to immigrants who reached the shores of the United States and then applied for asylum.<sup>41</sup> The INS had always followed this rule and treated screened-in, interdicted Haitians as applicants for asylum regardless of their HIV status.<sup>42</sup> Such immigrants were not applying from third countries. They had been interdicted by the United States, were in custody at a military base under the exclusive control of the United States, and had passed a credible fear test. In our view, there was no legal basis for treating them as immigrant applicants from a third country.

The question, at this point, was which legal strategy would be best for us to adopt. Our main fear was that HIV-positive Haitians who did not meet the higher standard would be returned to persecution in Haiti. Our priority was to prevent their return. We also wanted the INS to allow the Haitians to enter the United States, but this would be harder to accomplish. We knew that, legally, it would be difficult to argue for admission since the law generally denied judicial review of the government's power to exclude aliens.<sup>43</sup>

The entire situation was fraught with risk. The hysteria that swirled around HIV, AIDS, immigrants, and Haitians could easily overshadow our legal arguments. We were nervous, both politically and tactically, about arguing that the HIV exclusion of immigrants was illegal. The law barred entry to immigrants with communicable diseases, unless a waiver was obtained, and, unfortunately, HIV was deemed by the Surgeon General to be a communicable disease.<sup>44</sup> We also knew that, since the beginning of the AIDS epidemic, Haitians had been stigmatized unfairly as carriers of the disease.<sup>45</sup> It would not make the refugees' cause popular now if we emphasized their HIV status.

[\*197] A struggle to change the law regarding the HIV exclusion had been going on for a number of years.<sup>46</sup> Advocates for the change, attempting to get Congress to override the exclusion, had refrained from suing to overturn the law. They recommended that we do the same. They felt that a court challenge was risky; if we lost, the legislative battle might be

fruitless. I disagreed, believing that a legislative solution was unlikely on an inflammatory issue poorly understood by the public. We did, however, defer to our colleagues fighting the exclusion, and we did not raise the illegality of the HIV exclusion directly in our brief.

Initially, our highest priority was to develop a strategy that would prevent the United States from returning the Haitians to Haiti. A plan to get them into the United States would come later.<sup>47</sup> We employed what I label the "due process/lawyer" strategy. We argued that the due process clause of the Constitution applied on **Guantanamo**, a territory subject to exclusive United States jurisdiction and control, and particularly to the Haitians in United States custody who had been screened in and found to have legitimate fears of returning to Haiti. We asserted that returning the Haitians to Haiti could deprive them of their liberty or lives without due process of law. The Haitians' due process rights, we argued, could best be protected by giving them access to lawyers who would help prepare their refugee claims. This sounded reasonable to us, and we thought a judge would agree. After all, didn't everyone have a right to a lawyer? We, of course, said we would supply the lawyers at our own expense.

This strategy had a number of positive aspects. It was asking for something "as American as apple pie" -- the right to counsel and due process. It was not asking that all the Haitians on **Guantanamo** be brought to the United States -- only that all of them be given a fair chance to make their claims. Additionally, it would prevent any more refugees from being forcibly returned to Haiti until we had a chance to consult with them.

[\*198] It was not a perfect strategy. Access to lawyers and second interviews in which the HIV-positive Haitians still had to meet a higher standard was not what we or our clients really wanted. Winning would not eliminate discrimination against the HIV-positive Haitians, nor close the camp. We were not even initially litigating the legality of the camp. We really wanted the HIV-positive Haitians treated equally, and ultimately we wanted them admitted into the United States. However, without challenging the HIV exclusion directly we had no means to accomplish our ultimate objective.

I was one of several members of our legal team who was never fully comfortable with the goal of obtaining lawyers for the Haitians. I thought that the worst thing that could happen for our clients, other than being returned immediately to Haiti, was to win the right to counsel. If the government complied, it could still repatriate our clients either because the INS decided our clients did not have a well-founded fear of persecution or because the Attorney General did not grant HIV waivers. I did, however, see the demand for lawyers as a good way of preventing the Haitians' return in the immediate future.<sup>48</sup>

Some of our legal team considered winning the due process/lawyers argument to be very important. In their view, **Guantanamo** was a critical test case for whether the government could eliminate all constitutional and procedural protections available to aliens in the United States by setting up a processing camp outside the country. If the government could use this tactic with the Haitians, they reasoned, it could do the same to any other asylum-seeker.<sup>49</sup>

In mid-March 1992, we filed our case requesting immediate injunctive relief. We decided to emphasize the screened-in Haitians' Fifth Amendment right to due process of law. We argued that due process includes the right to counsel prior to an INS determination that could

[\*199] return our clients to possible death in Haiti. By April 6, we had won a preliminary injunction enjoining repatriation of screened-in Haitians detained on **Guantanamo** unless they were provided access to counsel.<sup>50</sup> The government filed an immediate appeal to the Second Circuit. On June 10, 1992,<sup>51</sup> the Court of Appeals affirmed, as modified, the district court order enjoining the government from "processing any further at **Guantanamo** Bay those Haitians who have already been 'screened-in'" and "enjoining the appellants from repatriating any such 'screened-in' Haitians without, in each instance, providing them access to attorneys . . . ." <sup>52</sup>

We had won an important victory for the Haitians and established a significant precedent regarding the applicability of the due process clause outside the United States. Nonetheless, the injunction was still problematic. It only required access to counsel if the government wanted to continue the repatriation process. If the government were to decide that it did not want to pursue the repatriation process, the refugees would have no right to counsel, the Haitians would remain in custody on **Guantanamo**, and we would have no access to them. Moreover, if the government were to decide to continue the repatriation process, the majority of Haitians would likely be repatriated to Haiti, even if they were allowed counsel during the second well-founded fear interview stage. We had won a procedural right for our clients, but it was a procedure that could have simply greased the wheels of repatriation.

### III. OUR LEGAL STRATEGY AND THE 1992 ELECTIONS

Over the summer of 1992 there was little legal movement in the case. The government did not go forward with second interviews, and we were not given access to our clients. We were at a standoff. However, fortunately for us, the government could not live with a circuit court precedent that applied the due process clause to aliens held at **Guantanamo** Bay. It was not willing to let a court decision stand that would permit those aliens access to attorneys. Presumably, it was worried not just about the present case, but about future cases. [\*200] It wanted **Guantanamo** available as a refugee-processing center, where the United States Constitution did not apply, and where aliens had no claims to due process.<sup>53</sup>

In October 1992, the government made us an offer. Lawyers for the Bush administration, emphasizing that they could never allow the Second Circuit decision applying the due process clause to the Haitians on **Guantanamo** to stand, said they would agree to process the Haitians with lawyers if we agreed to vacate the court order and drop the case. The government was giving us what we had asked for in the lawsuit. However, since the result was bound to be the return of most of the Haitians -- a fact the government admitted to us in the negotiations -- we did not want it.

It was relevant that 1992 was an election year, and the upcoming election was very influential on our strategy in the case. In retrospect, it was too influential. We had great hopes that Democratic candidate Bill Clinton would beat President Bush, and we believed that, if elected, he would close the **Guantanamo** camp. The big donors and high-profile leaders of the gay and lesbian community had thrown their support behind Clinton, and as part of his campaign promises to them, he had agreed to end the HIV exclusion. In the book *Putting People First*, which Clinton and vice-presidential candidate Al Gore coauthored, they wrote that they would "lift the current ban on travel and immigration to the United States by foreign nationals with HIV" and "give fleeing Haitians refuge and consideration for political asylum . . ." <sup>54</sup> Clinton also had made very encouraging statements about the rights of Haitian refugees. He had condemned the Bush administration's May 1992 Executive Order that summarily returned all Haitians interdicted on the high seas, and he had lauded the victory we had in the Second Circuit. <sup>55</sup> He promised that when he was President he [\*201] would not continue forcible summary return. We had no reason not to take Clinton at his word.

Although we believed that our clients would reject the government's offer, we could not make the decision without consulting them. Consultations would finally give us an opportunity to meet our clients, find out about the conditions on **Guantanamo**, and determine the next step in our strategy. The government, hoping we could convince our clients to accept their offer, agreed to let us go to **Guantanamo**. This resulted in our first meeting with our clients on **Guantanamo**.

The meeting at the detention camp was intense, fraught with emotion, and full of challenges. It would have a huge impact on our political work. The Haitians were desperate to get out of

the camp, but saw only death if they were sent back to Haiti. Conditions at **Guantanamo** were abominable. <sup>56</sup> People were getting sicker, children were suffering, and they had little to do except peer out from barbed wire fences.

Our meeting forced us to take a new tack with our legal strategy. We knew immediately that the Haitians would reject the government offer out of hand. We told the refugees honestly that we were skeptical about the Bush administration's offer. Even the most optimistic of us could not imagine more than one-half of the Haitians meeting the well-founded fear standard and obtaining a waiver. I felt the number would be even lower -- not because of the lack of merit in our clients' cases, but because I could not envision the Bush administration letting 300 HIV-positive Haitians into the United States.

**[\*202]** The discussion of whether or not to accept the offer was largely academic. The majority of the Haitians did not ultimately care about whether they had lawyers during processing or not. They wanted to get out of the camp and go anywhere but Haiti. In other words, they did not want the mere formal trappings of due process, but a guarantee of substance -- a guarantee that the camp would be closed and that they would be released. They also believed, based on our expectations, that Clinton's election would free them. We even brought *Putting People First* with us and showed it to our clients. The upcoming election also allowed us to persuade our clients that an immediate trial was not necessary or in their best interests. While they were not happy waiting for the election, it would be only a few months, and then Clinton would free them. We were practically certain.

When we returned from **Guantanamo**, we informed the government that our clients did not want to accept the offer. The government understood, as did we, that Clinton's likely election would make processing and even another trial unnecessary. Consequently, we reached an understanding with the government that all legal proceedings would remain at a standstill until the elections. Trial preparation on both sides slowed or stopped. The government also agreed to give us more regular access to the camp. In the interim, we continued to work on getting the sickest individuals out of the camp and into the United States, as the government had admitted it could not adequately care for them. Although our legal work slowed, as I describe in Parts IV and V, our lobbying and organizing efforts did not.

Ultimately, to our shock and amazement, President Clinton refused to do what candidate Clinton had promised. <sup>57</sup> The Haitians had been kept in a barbed-wire camp for over a year, and it appeared more likely than ever that they would remain there indefinitely solely because they were HIV-positive. On March 8, 1992, we were forced to go to trial, where we finally challenged the legality of what had become an HIV detention camp where refugees were detained indefinitely.

At trial we made numerous claims. We argued that: (1) the medical care was inadequate; (2) the Haitians were entitled to due process protections prior to any determination that could send them back to Haiti; (3) continued confinement constituted indefinite detention; (4) requiring the second well-founded fear determination on **Guantanamo** **[\*203]** was unauthorized by law; (5) the Attorney General had abused her parole authority; and (6) barring lawyers from the Haitian Service Organizations from the camp violated the First Amendment. On June 8, 1993, we won a resounding victory upholding all of our claims. <sup>58</sup> The District Court found that the "humanitarian camp," as the defendants referred to it, was "nothing more than an HIV prison camp presenting potential public health risks to the Haitians held there." <sup>59</sup> Protesting that the "Haitians remain in detention solely because they are Haitian and have tested HIV-positive," <sup>60</sup> the District Court ordered the Haitians released to anywhere but Haiti. <sup>61</sup> The government did not appeal the judgment for a variety of reasons, primarily because we had done so much effective political work on the issue. Since there was nowhere else to send the Haitians except the United States, the government finally freed them from the camp and bought them to the United States.

One question I still have is whether we should have sued on the more substantive issues earlier, possibly saving our clients a lot of suffering on **Guantanamo**. Although I do not think the overall decision to fight the HIV ban in Congress instead of the courts was correct, in retrospect, I think we followed the correct strategy by deciding to litigate the due process/attorney issue first rather than directly attacking the HIV exclusion and the very existence of the camp. The right to an attorney was the most winnable of the issues, and it immediately stopped the return of our HIV-positive clients. Perhaps because the argument was a lateral attack on the government's practices, rather than a direct one, it worked. However, it was always important to keep our eyes on the prize -- closing the camp -- instead of winning the right to counsel.

What is right morally does not always translate directly into litigation. For example, attacking the existence of the camp early on would have foreclosed the indefinite detention issue, since the period of time our clients had spent in the camp was too short. Nor could we have demonstrated the inadequacy of the medical and camp conditions. Frankly, our clients would not have been as likely to inspire sympathy in the judge as they were after spending a year and a half in the camp. However, I am not sure our clients would have made the same choice [\*204] had we been able to communicate with them earlier and more directly. Certainly by October 1992, they did not want to hear any more about the right to counsel. Only the hope of a Clinton victory and his promised support allowed us to postpone trial on the ultimate issue of closing the camp. In the meantime, while we litigated the counsel issue, over 300 men, women, and children suffered tremendously; some got sicker and some died.<sup>62</sup>

In hindsight, we can see that we were wrong to allow our trust in Clinton and his election promise to dictate legal strategy. Clinton sorely disappointed us, and our belief in him caused our clients to spend more time in the inhuman camp conditions. But for our belief in Clinton, we could have tried the case four or five months earlier and ended the horror of the camp that much sooner. If there ever is a next time and I am faced with a similar situation and must choose a legal strategy, I will disregard the promises of politicians. Clinton's promises and our reliance on them seriously jeopardized our relationships with our clients. We wrongly believed and persuaded our clients to believe that Clinton would change their circumstances. Regaining the trust of our clients was not easy.

Our approach to the litigation changed over time. The key point is that our legal strategy did not develop in isolation in a law library. Our debates about the right approach to litigation took place in the real world, literally with the lives of our clients at stake. Our legal strategy, particularly after we met with our clients, was guided by the conditions under which they were living and the political beliefs they held. Our strategy developed in response to an ever-changing landscape of events, conditions, and actions in different levels of the political realm. I discuss these factors below.

#### IV. OUR INSIDE STRATEGY

In practice, our political strategy combined both inside and outside approaches to non-legal work. Here I describe our inside strategy, by [\*205] which I mean our efforts to convince the executive branch to close the camp.

During the Bush presidency, although we never had the kind of access needed for an inside lobbying strategy, we constantly worked to negotiate freedom for some of the HIV-positive Haitians on a case-by-case basis. Our goal with this lobbying was not to close the camp *per se*, but to win release for individuals imprisoned at **Guantanamo**, even if it meant slipping them into the United States one at a time. It being unbearable to think about families separated by their HIV status -- mothers and children torn apart, positive husbands separated from negative wives, we lobbied to get all members of particular families admitted to the United States. We also tried to admit people with the most pressing medical needs, arguing that **Guantanamo** was simply not equipped to deal with particular characteristics of

HIV infection.

We perceived each release as more than a purely humanitarian goal. We believed that if there were fewer Haitians in the camp, it would be politically easier for the government to close it. Although it was often difficult for our clients to understand why certain people were permitted to leave and others were not, after many discussions with them they agreed with this strategy.

For months I spoke daily with Paul Capuccio, the Assistant Attorney General under Attorney General Barr, who was in charge of the case for the Justice Department. I would plead for an eleven-year-old boy, a pregnant woman with complications, or a man threatened with losing his eyesight. Although I had great ideological differences with Capuccio, he wanted to deal humanely with the refugees, and we developed a warm working relationship.

Negotiating slowly, we established categories of detainees who would be freed. The first category was refugees with medical complications, such as opportunistic eye infections, that could not be treated at **Guantanamo**. The next category was comprised of HIV-positive, pregnant women who were within a month of giving birth. We had argued that the facilities on **Guantanamo** were inadequate for handling HIV-positive deliveries. We were also able to persuade the administration to release a few other types of detainees, such as children with relatives in the United States. Finally, through a court order, the government was forced to free seriously ill prisoners with an AIDS diagnosis of less than 200 T cells.<sup>63</sup>

This entire scheme was impossible to explain logically or morally to our clients. There was no medical reason why a healthy, pregnant, HIV-positive woman should be allowed into the United States, while **[\*206]** a woman who was not pregnant but had AIDS should be kept in the camp. There was no reason why eye infections were deemed worse than brain infections or liver infections. There was certainly no logic to the T cell rule. Medical opinion holds that T cell counts are relative markers at best,<sup>64</sup> so excluding someone with 220 T cells and admitting someone with 197 was arbitrary in the extreme. Worst were the choices forced on many families by the INS. Repeatedly, a pregnant woman with a husband or young children was told, "You alone may leave, but your two-year-old must remain. Do you choose to stay with your two-year-old or to leave and deliver your baby in the United States?" None of this was easy. I particularly remember our struggle to convince the Justice Department that the young children and husbands of released pregnant women should be allowed to accompany them to the United States. Time and again I watched women faced with the wrenching choice of leaving their children and husbands behind barbed wire for an uncertain future. Yet, I felt we had to continue with these inside negotiations, as flawed as they were, until Clinton took office.

The night Bill Clinton was elected President there was great joy in the **Guantanamo** refugee camp. The Haitians had a party, believing that Clinton would free them when he took office. In New York we thought the same thing and were elated.

Even before the election we had begun developing and implementing our inside strategy for the Clinton administration. We knew many of the people in the Clinton campaign, and both Bill and Hillary Clinton had gone to Yale Law School. Shortly prior to the election, Hillary visited the school and met with Harold Koh and some of the law school team. They explained the **Guantanamo** case and handed her a memo on ways to close the camp. She grasped the issues immediately and seemed very sympathetic. We were ecstatic. After the election we wrote her a follow-up letter and received a form response thanking us for our views.

From November until the inauguration, we lobbied various executive transition teams to try to insure that Clinton's promises to end the HIV exclusion would be carried out.<sup>65</sup> We even received a request **[\*207]** from one of the transition teams for a briefing paper on actions to take with regard to both the **Guantanamo** camp and the interdiction policy. Our briefing

paper for the transition team reflected the views of most of the human rights groups concerned with the plight of Haitian refugees. Supposedly, the contents of the paper, which suggested non-legislative options for closing the camp, went to the top of the transition team and were on a list of twenty-five actions Clinton could take upon assuming the presidency. We also sent a letter directly to both Clintons asking the President-elect to give an immediate indication that he would close the camp when he took office.

We had good connections everywhere. <sup>66</sup> The health transition team was particularly responsive. They told us that we were "doing God's work," and that they had recommended that the HIV camp be closed and the Haitians brought in. We also had good contacts and meetings with the domestic policy transition teams, who were also sympathetic. Finally, the two members of our legal team who were also on the immigration transition team provided us with great access. Although our lawyers could not formulate policy on the HIV camp, they could make their views known.

We had indications, however, that our inside approach might not be completely smooth sailing. Our first sign came in a meeting we had with the NAACP after Clinton's election. In September 1992, when Bush was still President, the NAACP and TransAfrica had led a civil disobedience action in front of the White House protesting the interdiction policy and the **Guantanamo** camp. Now we asked the NAACP what they thought would happen with this new Democratic administration, and we were shocked by their response. They told us that it was very unlikely that Clinton would, as an early act of his administration, put 300 HIV-positive Haitians on an airplane and bring them into the United States. It was more likely, the NAACP said, that Clinton would first change the summary return policy. When we asked if the NAACP would support us in our struggle, we were told the NAACP would "not be out front on that issue." <sup>67</sup> It sounded to me like typical Washington talk; now that the policy was a Democratic [\*208] one, supposedly progressive Democrats would invariably support their President. Obviously, we were very upset.

Our next blow came on January 14, 1993. A week before his inauguration, Clinton, in a complete reversal of earlier promises, announced that he would continue the Bush policy of summary repatriation. <sup>68</sup> Suddenly it became clear that nothing was going to be easy.

Shortly after Clinton's policy reversal we received news from our clients on **Guantanamo** informing us that they were on a hunger strike. For them, it was either close the camp or die. The hunger strike started a debate about our inside strategy. While the strike could bring great media and public attention to the camp, some members of our legal team thought it could be counterproductive. We were in the middle of our inside negotiating and lobbying efforts with Clinton's people, they argued, and by bringing more public attention to the issue we would embarrass Clinton, bring out the right wing, and make it harder to close the camp. Would it not be better to avoid attention and slowly trickle the people out of the camp? Our clients were not popular, publicity could backfire, and some of us still had hopes for the Democrats.

I disagreed. We were already seeing that the kinds of case-by-case negotiations that we had with Paul Capuccio under Bush were not going to happen as smoothly with Clinton's people. The Democrats were less flexible, they were equivocal on HIV exclusion, they wanted to please everyone, and they wanted to protect their right flank. We had already made extensive efforts with the Clinton people, but we had nothing to show for it except broken promises. Relying on continued case-by-case negotiations alone was a strategy I believed would never work. We had to escalate public pressure.

Two of us went to the camp at the end of January 1993, the height of the hunger strike. The situation was desperate. The Haitians had lost a lot of weight, and many had been hospitalized. Our clients were adamant. They said we could do what we believed was legally necessary, and that they would not oppose us. However, we had not gotten them out, and



now they would decide how to act. In many ways, the hunger strike was the strategic turning point. It brought the press, well-known personalities, and politicians to **Guantanamo**.<sup>69</sup> It made the HIV camp a public issue. It also made us, the lawyers, pay a lot [\*209] more attention to our clients. From the strike forward, we were a continuous presence in the camp. Whether we liked it or not, our clients had set the course for an outside agitational strategy.

In early February 1993, we were in touch with the Department of Health and Human Services ("HHS"), headed by Donna Shalala. The Surgeon General of the United States worked under HHS and had the power to remove HIV from the list of communicable diseases, which would lift the HIV exclusion for immigrants.<sup>70</sup> HHS was aware of the dire situation in the **Guantanamo** camp and seemed to find it appalling. The Department, therefore, decided to try to remove HIV from the list, which would effectively free the Haitians. While we had always hated the HIV ban and wanted it removed, we were nervous about what this approach would mean for the Haitians. Removal of the HIV ban for all immigrants was a hot-button issue, a focus for fears about AIDS and immigrants. Once before, on January 23, 1991, HHS had tried to remove the HIV ban by publishing a proposed regulation removing HIV from the list of "communicable diseases of public health significance."<sup>71</sup> However, due to an orchestrated rightwing attack led by Congressman Dannemeyer and intense political pressure, HHS was forced to publish an interim regulation leaving it on the list.<sup>72</sup>

Now, however, with a Democratic President who seemed to support the change, we hoped it would be different. The regulation was drafted and taken to the White House. When Clinton refused to approve it, the staff at HHS was crushed.<sup>73</sup> It was an amazing sell-out. By this time the press had gotten wind of the proposed regulation, and bills were drafted mandating that HIV be declared a communicable disease. Unfortunately, Clinton refused to fight for what had been part of his social platform, and a law was passed declaring HIV to be a communicable disease.<sup>74</sup> Now, even if the Surgeon General determined otherwise, his hands were tied. The Haitians were worse off than before.

It was a bleak moment. In one of our last-gasp attempts at resurrecting our inside strategy, we arranged a meeting with Michael Cardozo, Clinton's transition person at the Department of Justice. Since [\*210] the INS was part of the department, the Attorney General or Acting Attorney General had the authority to parole the Haitians into the United States.<sup>75</sup> We gave Cardozo a plan for slowly bringing the Haitians to the United States, but we were unnerved by his response. He said that in his view, or at least in the view of those close to the President, Clinton could weather a dead Haitian on **Guantanamo** better than he could deal with the negative political fallout of having HIV-positive Haitians coming to the United States. This conversation, more than any other, made us realize that our inside strategy had its limits and that we had to go public with an aggressive outside strategy. Our acquaintance with various staff people in the White House was not enough to overcome what Clinton and his advisers feared was an unpopular issue. Nor did the moral consequences of the policy carry any weight: the Clinton administration, like others, was not one that acted because of morality, but for political expediency. As a result, we would be going to trial. A federal judge would have to close the camp, because Clinton was never going to.<sup>76</sup>

## V. OUR OUTSIDE STRATEGY

In this section I describe our outside strategy, which involved applying pressure outside elite circles and outside our networks of acquaintances in Washington. Our strategy included getting media attention, holding demonstrations and hunger strikes, and even engaging in civil disobedience. We were joined in this outside strategy by AIDS activists, the American Haitian community, African American organizations, students, immigration activists, and, most significantly, the Haitians incarcerated on **Guantanamo**, who refused to be quiet and wait for us to win through inside persuasion or the courts.

The truth was that even if the entire legal team had decided to follow only an inside strategy,

we could not have made all of the participants with an interest in the case adhere to that path. HIV activists, especially ACT-UP, and Haitians in the United States were going to insure that the issue was on the public agenda. The Haitians themselves, jailed on **Guantanamo**, provided perhaps the best example of how we did not have complete control over events. The Haitians on **Guantanamo** had their own reality and it was extremely different from ours. While we debated about the degree of publicity we wanted, they [\*211] were confined behind barbed wire under inhuman conditions and were subject to abuses at the hands of the military. For a time we tried to calm our clients and give them hope that they simply must hold on until Clinton took office. This worked for a while, but eventually their hope evaporated, and the Haitians took the situation into their own hands and went on the hunger strike. Although we were attorneys and could not direct a popular mobilization, we had to work in coalition with all of these independent-minded and often conflicting groups, the politics of which were not always predictable.

I recall a heated debate we had at Yale about the hunger strike. Some of us were fearful that the strike would embarrass the Clinton administration and make it harder for our inside lobbying strategy to work. Others felt it would help put pressure on Clinton, and that it was, therefore, a positive development. In reality, it made little difference what any of us thought. The Haitians had been in the camp almost a year, and they were doing what they believed was necessary to gain their freedom. The hunger strike gave them a semblance of control over their situation and made the lawyers work harder. It forced us to send delegations to the camp. It gave us a reason for pushing public figures such as Jesse Jackson to go to the camp. The hunger strike turned out to be very successful, and it is an example of outside organizing around a legal proceeding, beyond the legal team's grand plan.

We were representing clients with seemingly everything against them: they were immigrants at a time of intense anti-immigration hysteria; they were also Black, Creole-speaking foreigners; they had strong political ideas; and they were HIV-positive. What we did not recognize at the beginning of the litigation was that these very weaknesses could be strengths as well. Our clients had a wide array of potential constituencies in the United States: AIDS activists, Haitians, African Americans, refugee and human rights organizations, religious leaders, Hollywood and public figures concerned about AIDS, students, anti-imperialists, and Haitian democracy advocates. Nonetheless, while these groups were potentially sympathetic, they did not activate themselves automatically. Many of them came on board only after much organizing, education, and internal debate.<sup>77</sup>

[\*212] Our political efforts began in June 1992 while Bush was still President. We started locally in New York City with small, difficult meetings of Haitian, AIDS, and human rights activists. The meetings of what was called the Emergency Coalition to Shut Down **Guantanamo** were difficult. Some non-Haitian people were less focused on the historic stigmatization of Haitians as carriers of AIDS, but were simply horrified at the prospect of government-sponsored incarceration of people with AIDS. Some Haitians were infuriated at the racism of the camps, but uncomfortable with discussions of AIDS and the radicalism of veteran AIDS activists. The Haitians had a different view than the AIDS activists.<sup>78</sup> Therefore, many Haitians in the United States and in Haiti wanted to distance themselves from any issue dealing with HIV. Allegations that Haitians were carriers of the virus had been part of the original hysteria around AIDS and had resulted in widespread discrimination.<sup>79</sup> Furthermore, our clients on **Guantanamo** did not accept that they were, in fact, HIV-positive, and did not refer to themselves as such. Many Haitians saw the **Guantanamo** detainees as primarily, if not exclusively, political refugees -- political prisoners of the United States. To most Haitians, **Guantanamo** detainees were imprisoned because they were Black and Haitian, not because they were HIV-positive.

The Emergency Coalition's early meetings to discuss language for literature and leaflets highlight the difficulties we had in achieving common ground in our outside political work. Some in the Haitian community wanted to refer to those in the camp as "allegedly" having

HIV or AIDS. AIDS activists disagreed. They did not view HIV-positive status or AIDS as something to be ashamed of, and they did not want to equivocate about their status. Finally, a compromise on the phrasing was reached: "Hundreds of Haitians were detained, many of whom have HIV or AIDS."<sup>80</sup>

[\*213] The organizations worked together despite the differing ways that groups perceived the refugee issue, and despite how the refugees saw themselves. As time went on, the groups learned from each other and their political thinking evolved. At one large demonstration, for instance, Guy Victor of the 10th Department -- an organization of Haitians living outside of Haiti -- led the chant, "HIV is not a crime!" while ACT-UP members led a chant of "No Aristide, No Peace!"<sup>81</sup> We learned an important political lesson: we could form a coalition without mandating that all of its groups have precisely the same political line or tactics. It was critical, though, to have some broad common agreement and a tolerance for each other's viewpoints in order to effectively achieve our common and ultimate goal -- we all wanted to shut down the **Guantanamo** camp.<sup>82</sup>

Local outside organizing efforts became especially important during the late summer and fall of 1992. The government was bringing some of the Haitians into the United States (those described earlier as pregnant or ill) and, in some cases, keeping them in custody, sometimes in jail.<sup>83</sup> In New York, members of the coalition held regular demonstrations in front of the jail where a refugee was imprisoned. Accordingly, reporters and politicians grew interested in the story.

Some members of the coalition began to work with the Coalition for the Homeless, Housing Works, Community Family Planning Council, Haitian Women's Program, and Haitian Women for Haitian Refugees to provide housing and social services for released refugees.<sup>84</sup> The [\*214] service provider groups also worked inside to gain local political support. Through them we received help from Mayor David Dinkins and the New York City Commissioner of Human Resources. We also won the support of three other leading officials, all HIV-positive themselves. These three -- Dennis Deleon, a Latino and head of the New York Human Rights Commission; Ron Johnson, an African American and the New York City AIDS czar; and a white City Council member, Tom Duane -- worked tirelessly for the cause. They gave speeches, engaged in civil disobedience, and, most of all, insured that New York was willing to take all the Haitians. New York's willingness to resettle all the Haitians gave us great strength with the United States government. When the Clinton people claimed that the Haitians were unwanted or would burden housing and healthcare, we could reply that New York and other cities had agreed to take them all.<sup>85</sup> Although we did not realize its importance when we began, local organizing played a critical role in our eventual victory.<sup>86</sup>

Perhaps the most important constituency in our coalition was the community of AIDS activists that had been ravaged by AIDS for nearly a decade. This community had a militant interest in ending discrimination against HIV-positive people, and the existence of a detention camp solely for people with the virus resonated with them. Of the AIDS activist organizations in our coalition, ACT-UP took the most radical approach. Its members dogged Clinton everywhere he went.<sup>87</sup> They made the issue hot for him. Members stood in long lines at receptions to shake his hand. Upon meeting him, they would tell him to free the Haitians. At his speeches they would demonstrate with loud chanting and highly visible banners. On one occasion, ACT-UP was outside protesting and getting arrested while one of our lawyers had a 15-minute meeting with Clinton at a fund-raising event.

[\*215] African American organizations were another important part of the coalition. Grassroots groups and leaders alike often saw the issue as racism. Jesse Jackson and the National Rainbow Coalition played a crucial role in organizing black groups and garnering national publicity. On his first trip to **Guantanamo**, Jackson brought with him Dr. William Gibson of the NAACP and Congresswoman Corrine Brown. Jackson followed with asking the Roman Catholic Church, to which most Haitians belong, as well as other denominations to

declare February 21, 1993, a day of fasting for the people of Haiti and those detained at **Guantanamo**. Jackson himself went on a fast for ten days. Many others fasted as well, including the conservative Cardinal O'Connor from New York. Cardinal O'Connor even agreed to resettle and medically treat all of the Haitians at Catholic hospitals. <sup>88</sup>

The fast and hunger strike took off, galvanizing another key constituency of our political work -- students at universities throughout the country. On March 2, 1993, Yale Law School, Clinton's alma mater, spearheaded a national student hunger strike named Operation Harriet Tubman. At least thirty students at Yale participated in the week-long strike, remaining behind a barbed wire enclosure they built to represent the **Guantanamo** camp. Black ministers from around the country joined in the hunger strike.

Operation Harriet Tubman spread in a "rolling strike" to universities all over the country. Each school would strike for a week or ten days and then pass on the strike. Harvard was next, then Brown, University of Michigan, Columbia, Howard, Georgetown, Penn State, George Washington, Catholic University, New York University, University of Maine, American University, University of California at Berkeley, San Francisco State, City University of New York Law School -- where the Dean, Haywood Burns, participated -- as well as a number of other schools. The hunger strikes, both at universities and churches, continued almost until the day of freedom for the Haitians.

By March 1993, we had a substantial campaign operating in the United States. Jesse Jackson, the students, gay and AIDS activists, and the hunger strikers themselves on **Guantanamo** constituted a solid core of organizers. The groups who had organized the Emergency Coalition to Shut Down **Guantanamo** and the Haitian community in New York were holding regular demonstrations and vigils. People from the Emergency [\*216] Coalition and progressive doctors who worked with us traveled to Germany and made the existence of the camp an issue at the International AIDS Conference in Berlin. Medical and health organizations -- particularly Doctors of the World (who had spent time in the camp), the influential American Public Health Association, and even the Centers for Disease Control -- had condemned or criticized the camp. In addition, refugee and human rights groups, including Amnesty International, the National Coalition for Haitian Refugees, and the International Human Rights Law Group (the "Law Group"), campaigned to close the camp. The Law Group filed a major brief with the United Nations' Working Group on Arbitrary Detention, claiming that the camp violated international law and urging the Working Group to make a site visit. <sup>89</sup>

Our outside political strategy was also yielding good press coverage. During the early part of the case, we had worried about a negative reaction to stories about our clients. However, when the government refused to allow press visits to the camp on **Guantanamo**, some reporters filed a lawsuit to gain access. <sup>90</sup> Once access was achieved, minimal as it was (reporters only were permitted to spend four hours with the refugees), very moving reports began to come out in the major papers. <sup>91</sup> One influential New York Times story demonstrated the callousness of the United States government, quoting INS official Duke Austin as saying nothing was wrong with the camp because the Haitians were "going to die anyway." <sup>92</sup>

At the beginning of our trial in March 1993, seventy-five people joined a spirited picket in front of the Brooklyn courthouse. When the government lawyers arrived from the United States Attorney's office across the street, protesters confronted them with shouts and chants. The protesters, Jesse Jackson among them, then filled the courtroom. Quiet murmurs of "that's right" accompanied our opening argument, while muted anger greeted the government's. Later that day there was a demonstration and civil disobedience, organized by Broadway Cares/Equity Fights AIDS, on Fifth Avenue in front of Rockefeller Center. At the demonstration many prominent people spoke, including Manhattan [\*217] Borough President Ruth Messinger, Rabbi Balfour Brickner, Councilwoman Una Clarke, Reverend Jesse

Jackson, actress Susan Sarandon, Reverend Herb Daughtry of the Black United Front, and movie director Jonathan Demme. Almost all of the speakers were subsequently arrested when they blocked Fifth Avenue to protest any continued detention of the Haitians.

The Emergency Coalition's organizing resulted in a dramatic protest beamed by television to a billion and a half people. In addition, during the Academy Awards, Susan Sarandon and Tim Robbins walked onto the stage wearing red ribbons as a reminder of AIDS and denounced the HIV prison camp at **Guantanamo**. The existence of the camp had become a major national and international issue that could not be ignored.

## VI. CONCLUSIONS

Once we won the trial in the District Court it was more or less a forgone conclusion that the government would not ask for a stay of the order or appeal. We had defeated them in the public arena, and we had never stopped agitating inside the Washington Beltway. We also demolished them in court. As a result of our combined efforts, there was little political sense in keeping the camp open, and now the government had a pretext for closing it. Senator Graham, a Democrat from Florida, however, made one last-ditch effort to urge the Clinton administration to request an immediate stay. He had the support of forty-two members of Congress. We gathered our forces once more to engage in a massive telephone and letter campaign urging the Clinton administration to comply with the court order and not seek a stay. Ultimately, the government obeyed the order. By the time of our court victory there were fewer than 150 Haitians left at **Guantanamo**; we had trickled the others one by one into the United States. On June 14, 1993, the last of the Haitians arrived in New York.

In tears, we greeted each Haitian individually at the airport. These were people we had known under the most adverse conditions. Now they were arriving to a welcome of flowers and friends. I cried and cried. These people had been so strong, had endured so much, and yet nearly two years of their already foreshortened lives had been stolen from them. We had won a difficult victory, but it was bittersweet. Nothing could bring back those lost years.

Looking back, I believe that the political climate created by our organizing work around **Guantanamo** is the only thing that protected the court victory. The executive branch could easily have appealed. Had it done so, it is likely Judge Johnson's opinion would have been reversed, if not by the appeals court, then by the Supreme Court, which [**\*218**] was extremely hostile to the rights of aliens in general and Haitians in particular.<sup>93</sup> Given the government's motivations and interests, only our unremitting political pressure forced the Clinton administration to let Judge Johnson's decision stand.

Throughout this litigation two administrations were driven not by what was right, but what they believed was politically popular -- and Black HIV-positive Haitian refugees were certainly not thought to be popular. The government impressed its attitude upon us at every step of the struggle. For example, when we first filed the case, the Bush administration requested sanctions against us for litigating what it claimed was a frivolous case and sought an unprecedented \$ 10 million bond in an attempt, I believe, to intimidate both us and the court.<sup>94</sup> A high-level attorney in the Bush administration told us that Attorney General Barr believed that everyone who was HIV-positive should be returned to Haiti. Despite their hostility to our clients, the government used the decision of the federal district court as an excuse to free the Haitians. The court decision forced the government, feeling increased pressure, to commit to action that it was not bold enough to take on its own. Public image, not law or morality, consistently ruled the government's calculations.

It would be comforting to think that the lessons of **Guantanamo** are clear and agreed upon. I suspect, though, that our ongoing differences of opinion and approach remain. In my own conclusions about the case, I draw the following lessons.

The first, and perhaps the most important point, is that victory is possible. I do not mean to be falsely optimistic, or to say that the struggle will be easy. Nonetheless, under almost impossible conditions, with a flexible strategy, a creative combination of tactics, and the unending determination of our clients, we won.

The next lesson is one I have always believed, and it was reinforced for me in this case. Little, if anything, is won inside the Washington Beltway. In fact, we had to create significant public pressure to force politicians to deal with the issue. If we just met quietly with them, they could be polite and send us home without agreeing to anything. Our dealings with the Clinton administration, where all of our good connections and ability to work inside were fruitless, underscored this conclusion. Politicians do not do the right thing because of morality, [\*219] but because they are pushed. As Frederick Douglass said, "power concedes nothing without a demand."<sup>95</sup> Our initial faith in the words of candidate Clinton resulted in our clients trusting us less, and may have cost our clients four or five months in the camp.<sup>96</sup> The lesson is simple: never trust politicians to do the right thing, and never hinge a legal strategy on their words. It is action that counts. Clinton, like many other politicians, did not act until forced to do so.

The lesson about the Democrats, also, I hope will be clear. Even if the Democrats agreed with us in their hearts, they were often too weak-kneed to act. Our ability to convince them through humanitarian appeals was limited; we needed to apply political pressure as well. I will never agree with those who saw their loyalty to the Democrats as greater than their loyalty to principle or to human rights. An outrage perpetuated by a "friend" must be challenged as surely as the wrongs committed by our enemies.

We also learned not to hold back an activist strategy for fear it would backfire and cause the politicians to get upset. The politicians had already factored in the negative; we did not have to do it for them. Taking aggressive political action also yielded unanticipated, positive results. For example, while we approached ACT-UP solely to enlist their political support and their militant public presence, its members subsequently were key in locating service providers for the Haitians, a critical requirement for their release. These unexpected benefits cannot be overemphasized. Thoughtful activism is necessary to win legal battles and can achieve multiple and unforeseen objectives in struggles that are in essence political. Silence, on the other hand, achieves nothing.

Finally, I hope that one lesson from **Guantanamo** will be taken to heart by lawyers and activists who work with political cases. Our clients are the actors who drive the strategy. They have their own reality, their own demands, and their own vision. We know more about the law, and we may have a particular range of skills and abilities. However, our knowledge of the difficulties in winning hard cases can make us overly cautious in our approach to litigation. Our clients know more about their own lives and bring their own power to the case. They are not instruments of our political purposes, and while we need [\*220] to discuss and argue and exchange to develop an effective approach, ultimately they will and should decide.

#### EPILOGUE

The last few years have not been good for immigrants seeking refuge in the United States. During the **Guantanamo** litigation our team fought and lost what I consider the most important refugee case of the later half of the twentieth century, *Sale v. Haitian Centers Council*.<sup>97</sup> *Sale* grants the President authority to interdict refugees on the high seas and summarily return them to their oppressors. I believe this power is clearly contrary to the United Nations Protocol,<sup>98</sup> which was implemented to end the barbaric practices of countries during World War II. Although we won certain constitutional rights for our clients at **Guantanamo**, later cases challenging the treatment of refugees in the camp lost.<sup>99</sup> In the future, if courts follow the Eleventh Circuit's rulings, the United States will have *carte blanche*

to treat or mistreat refugees at **Guantanamo** however it chooses. In addition, HIV-positive immigrants seeking entry to the United States are worse off than when we began the litigation in 1991. While they can still obtain waivers for entry, the exclusion has now been legislated by Congress, and only Congress can lift the ban. Finally, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996<sup>100</sup> treats immigrants harshly and has the potential to force hundreds of thousands of refugees out of the country. Recently, Congress has attempted to remedy this provision of the law, but has done so in a fashion that only protects Central Americans, primarily Nicaraguans, and persons from former East-bloc communist countries.<sup>101</sup> Conspicuously not included in this legislation are Haitian refugees.<sup>102</sup>

**FOOTNOTES:**

<sup>100</sup> *No More Nice Guy*, 1992 NATION MAG. 891, 892.

<sup>101</sup> Harold H. Koh, *No Vacancy in the Land of Liberty*, CONN. L. TRIB., Aug 2, 1993, at 22.

<sup>102</sup> Co-counsel included Harold Koh, a professor at Yale Law School and Director of the Schell Center for International Human Rights; Joseph Tringali, a partner at Simpson, Thacher & Bartlett; Lucas Guttentag, Director of the ACLU's Immigrants Rights project; and Robert Rubin at the San Francisco Lawyers' Committee for Civil Rights. The students working with the Lowenstein Human Rights Clinic at Yale Law School played a major role in the litigation.

<sup>103</sup> *Haitian Centers Council, Inc. v. Sale*, 823 F. Supp. 1028 (E.D.N.Y. 1993), vacated by Stipulated Order Approving Class Action Settlement Agreement (Feb. 22, 1994), abrogation recognized by *Cuban American Bar Assoc., Inc. v. Christopher*, 43 F.3d 1412, 1424 n.8 (11th Cir. 1995). The release of the **Guantanamo** Haitians was the culmination of a complex series of cases undertaken by our litigation team in the wake of the refugee crisis which was created as a result of the overthrow of acting President Aristide in late September 1991. The litigation began with the winning of a temporary restraining order, *Haitian Ctrs. Council v. McNary*, 789 F. Supp. 541 (E.D.N.Y. 1982), and a preliminary injunction requiring that Haitians in custody on **Guantanamo** had due process rights which could best be protected by a right to counsel prior to repatriation to

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RATNER, MICHAEL

6/73

[Redacted]

b3  
b7E

RATNER, MICHAEL

3/72

100-162180-1A4

RATNER, MICHAEL

4/70 100-10769-1B 958

Rm 934 303 E. 90 St., NYC  
Name & address on Xerox copy of Hotel Sonesta  
ledger card showing room assgnd & pymt during  
National Lawyers Guild 31st Nat'l Convention,  
2/20-23/70 at Hotel Sonesta, Wash., D.C.

SOURCE:

[Redacted]  
Wash., D.C. (in a position to furnish rel.  
info.) furnished to SA [Redacted]  
on 2/25/70.

b6  
b7C  
b7D

RATNER, MICHAEL (MR.)

4/70 100-10769-1B 957

303 E. 90th St., NY, NY  
Name & address on Xerox copy of reservation  
request to attend National Lawyers Guild 31st  
National Convention, 2/20-23/70, Wash., D.C.

SOURCE:

[Redacted]  
Wash., D.C. (in a position to furnish rel  
info.) furnished to SA [Redacted]  
on 2/25/70.

b6  
b7C  
b7D

RATNER, MICHAEL

5/72

176-403A-2550

299 Riverside Drive  
New York, New York  
865-3782

~~CONFIDENTIAL MATERIAL ATTACHED~~

TO: SAC:

- Albany
- Albuquerque
- Alexandria
- Anchorage
- Atlanta
- Baltimore
- Birmingham
- Boston
- Buffalo
- Butte
- Charlotte
- Chicago
- Cincinnati
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit
- El Paso
- Honolulu

- Houston
- Indianapolis
- Jackson
- Jacksonville
- Kansas City
- Knoxville
- Las Vegas
- Little Rock
- Los Angeles
- Louisville
- Memphis
- Miami
- Milwaukee
- Minneapolis
- Mobile
- Newark
- New Haven
- New Orleans
- New York City
- Norfolk

- Oklahoma City
- Omaha
- Philadelphia
- Phoenix
- Pittsburgh
- Portland
- Richmond
- Sacramento
- St. Louis
- Salt Lake City
- San Antonio
- San Diego
- San Francisco
- San Juan
- Savannah
- Seattle
- Springfield
- Tampa
- Washington Field
- Quantico

TO LEGAT:

- Beirut
- Bern
- Bonn
- Brasilia
- Buenos Aires
- Caracas
- Copenhagen
- Hong Kong
- La Paz
- London
- Madrid
- Managua
- Manila
- Mexico City
- Ottawa
- Paris
- Rome
- Singapore
- Tel Aviv
- Tokyo

RE:

Date AUG 15 1973

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07-10-2017 BY J36J55T41 ADG

- For information  Retention optional  For appropriate action  Surep, by \_\_\_\_\_
- The enclosed is for your information. If used in a future report,  conceal all sources,  paraphrase contents.
- Enclosed are corrected pages from report of SA \_\_\_\_\_ dated \_\_\_\_\_

Remarks:

*W. D. [Signature]*  
*8/17/73*  
*[Handwritten notes and scribbles]*

OPEN  
ORIG.  
SUPV.

[Redacted Box]

SERIALIZED \_\_\_\_\_  
 AUG 15 1973  
 FBI - NEW YORK

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b7E

Enc.  
Bufile  
Urfile

~~CONFIDENTIAL MATERIAL ATTACHED~~

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NEW YORK

[Redacted] (400-NEW)

DATE: 1/10/75  
~~12/18/74~~

b3  
b7E

FROM : SA [Redacted] (3A7)

b6  
b7C

SUBJECT: Michael D. Ratner  
299 Riverside Drive

~~CONFIDENTIAL~~

Through recent investigation of [Redacted] (NYfile 100-170212) and [Redacted], and information supplied by [Redacted] it has been determined that the above-listed individual has been in contact with [Redacted] and/or [Redacted]. Receiving Agents are requested to conduct the following investigation regarding this individual.

b3  
b7E  
b6  
b7C  
b7D

- 1) Determine that the subject is a real person, and not someone using a false identity.
- 2) Verify the subject's residence and telephone number.
- 3) If possible through a discreet source, determine if the subject has been in contact with Weathfugs or related individuals.
- 4) Determine the identity of all individuals residing with the subject, and the names of all persons who receive correspondence at the subject's address.
- 5) Conduct a DMV check on the subject to determine if the subject has an automobile registered in New York State. A description of the subject should also be obtained from DMV.

With regard to the above investigation, utmost care must be taken to insure that the subject does not become aware of the Bureau's interest in his or her activities. Under no circumstance should the subject be interviewed without first discussing such a proposal with the writer.

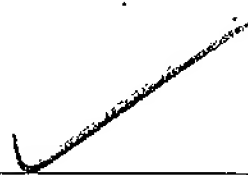
REOPEN  
ORIGIN NYC  
SUPV 3A7  
CASE 100  
DATE 12/18/74  
SECT 3A7

NEW YORK (100-NEW)  
JSA/jsa Classified by 2070 II  
(1) Exempt from GDS, Category II  
Date of Declassification Indefinite  
~~CONFIDENTIAL~~

SEARCHED	INDEXED
SERIALIZED	FILED
12/18/1974	
FBI - NEW YORK	

b3  
b7E  
b6  
b7C





TO: CHIEF CLERK

Date

Subject Michael D Ratner

Social Security Account #

Aliases

Address Birth Date Birthplace Race Sex  
 Male  
 Female

Exact Spelling  Main Criminal Case Files Only  Restrict to Locality of  
 All References  Criminal References Only  
 Main Subversive Case Files Only  Main Subversive (If no Main, list all Subversive References)  
 Subversive References Only  Main Criminal (If no Main, list all Criminal References)

File & Serial Number	Remarks	File & Serial Number	Remarks
	<u>see act + see act on</u>		
	<u>mal name heard</u>		
	<u>Michael Ratner</u>		
	<u>see act</u>		

Requested by Squad Extension File No.

Searched by \_\_\_\_\_ (date)  
 Consolidated by \_\_\_\_\_ (date)  
 Reviewed by \_\_\_\_\_ (date)

**File Review Symbols**  
 I - Identical          ? - Not identifiable  
 NI - Not identical      U - Unavailable reference      ★G.P.O. 1972-471-961

RATNER, MICHAEL DAVID 8/73



b3  
b7E

RATNER, MICHAEL D. 3/74

100-172497-B-2  
012

299 River Drive  
NYC

RATNER, MICHAEL 9/73



RATNER, MICHAEL

5/72

176-403A-2550

RATNER, MICHAEL (MR.)

4/70 100-10769-1B 957

RATNER, MICHAEL

4/70 100-10769-1B 958

RATNER, MICHAEL

3/72

100-162180-1A4

RATNER, MICHAEL

6/73



b3  
b7E  
b6  
b7C

4/70 100-10769-1B 957

RATNER, MICHAEL

5/74

100-162180-1B1 (1)  
COVER PAGE

NEW YORK, N.Y.

74  
30  
154

UNITED STATES GOVERNMENT

DECLASSIFICATION AUTHORITY DERIVED FROM:  
FBI AUTOMATIC DECLASSIFICATION GUIDE  
DATE 07-10-2017 BY: J36J55T41

# Memorandum

TO : SAC NEW YORK ( [redacted] )

DATE: 3/14/75

b3  
b7E  
b6  
b7C

FROM : SA [redacted] #47

SUBJECT: MICHAEL D. RATNER  
SM

~~CONFIDENTIAL~~

The subject currently resides at 299 Riverside Drive, New York City in apartment 12 D. He is an attorney and the above case file has heretofore been opened and subsequently closed.

[redacted] Superintendent, observed photographs<sup>b6</sup><sub>b7C</sub> of Weatherfugs, made no identifications, but will contact the writer, upon receipt of any pertinent information.

It is suggested that this case be closed.

~~CONFIDENTIAL~~

SEARCHED  
SERIALIZED  
INDEXED  
MAR 17 1975  
FBI - NEW YORK  
#47

[redacted]  
SEARCHED  
SERIALIZED  
INDEXED  
MAR 17 1975  
FBI - NEW YORK

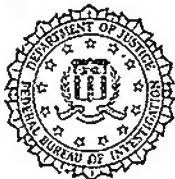
b3  
b7E

JW Q NY

1-(100-17022) # 4770 II

Classified by  
Exempt from GDS, Category II  
Date of Declassification Indefinite





UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION  
New York, New York

In Reply, Please Refer to  
File No.

~~CONFIDENTIAL~~

Committee For July 26, 1975

[Redacted]

b3  
b7E

On July 24, 1975, a confidential source advised that a group known as the Committee For July 26, 1975 would sponsor a two day Pro-Cuban exhibit, on July 24 - 25, 1975, at the Manhattan Center, West 34th Street and 8th Avenue, New York, New York (NY, NY) (S) (U)

Referenced memorandum refers to a bulletin entitled, "A Call To Build the Committee For July 26, 1975", (a characterization of the 26th of July Movement appears in the appendix hereto) (S) (U)

A characterization of the Venceremos Brigade appears in the appendix hereto.

On July 25, 1975, a second confidential source advised that the captioned group will hold a Pro-Castro rally at Manhattan Center through July 24 - 25, 1975. He advised that the speaker will be Dr. Melba Hernandez, head of the Cuban Committee of Solidarity of the People's of Vietnam. (S) (U)

It is noted that Melba Hernandez did not speak on the above occasion inasmuch as Dr. Hernandez did not receive a visa from the United States (US) (S) (U)

On July 24, 1975, a third confidential source furnished a pamphlet entitled "A People's Salute To Cuba - July 24 - 25." This article speaks of Dr. Hernandez and states that on July 26, 1953, Dr. Hernandez was among Fidel Castro's rebel forces. Castro has written very highly of Hernandez. (S) (U)

The "Daily World" issue of July 30, 1975, page nine contains an article which states that "Salute to Cuba" draws 4,000 in NY. It states [Redacted] a member of the

b6  
b7C

~~CONFIDENTIAL~~

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Sources whose identities are concealed herein have furnished reliable information in the past except where otherwise noted.

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b7E

SEARCHED \_\_\_\_\_  
SERIALIZED mm  
INDEXED \_\_\_\_\_  
FILED mm



## Acknowledgments

The Committee for July 26 extends its warmest thanks to the following people who helped to produce "A People's Salute to Cuba". There are certainly some individuals and groups whom we have overlooked. To them we extend our apologies. We hope that everyone who has worked on "A People's Salute to Cuba" shares with us in the satisfaction of realizing it.

Ella Baker	Lennox Hinds
Clyde Bellecourt	Rev. Kirkpatrick
Leon Bibb	Lucy Mahler
Rodí Broullon	Florencio Merced
Roy Brown	Mike Myerson
Terry Cannon	Jerry Oberwager
"Cerni"	Angel Parra
Johnnetta Cole	Michael Ratner
Angela Davis	Ismael Rivera and his Orchestra
Ossie Davis	Cleveland Robinson
John Devine	Antonio Rodriguez
Carol Bernstein Ferry	Socorro Santiago
Ping Ferry	Sherman
Dave Dellinger	Piri Thomas
Betty Garcia	Joe Walker
Michael Glick	Casa de las Americas
Gabriel Guzman	National Lawyers Guild

*The cover is part of an original poster designed for us by Cuban painter Raul Martinez, Havana, 1975.*

What Cuba can give to the people, and has already given, is its example.

And what does the Cuban Revolution teach? That revolution is possible, that the people can make it, that in the contemporary world there are no forces capable of halting the liberation movement of the peoples.

—Second Declaration of Havana  
February 4, 1962

COMMITTEE FOR JULY 26  
GPO Box 3169, New York, NY 10001, (212) 255-0119

UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI [redacted]

FROM : SAC, NEW YORK [redacted] (C)

SUBJECT: COMMITTEE FOR JULY 26, 1975  
[redacted]

DATE: Aug 18 1975

b3  
b7E

Reference is made to New York letter and LHM, 7/3/75, entitled "VENCEREMOS BRIGADE, [redacted]"

Transmitted herewith are 6 copies of an LHM for the Bureau, dated and captioned as above.

- 2-Bureau (Enc. 6) (RM)
- 2-Boston [redacted] (RM)
- 2-Los Angeles [redacted] (RM)
- 1-New York (100-160627) [redacted]
- 1-New York [redacted]
- 1-New York (100-159192) [redacted]
- 1-New York [redacted]
- 1-New York (100-121672) [redacted]
- 1-New York (100-173244) [redacted]
- 1-New York (100-113220) [redacted]
- 1-New York (100-143665) [redacted]
- 1-New York [redacted]
- 1-New York (100-10769 (NATIONAL LAWYERS GUILD))
- 1-New York [redacted] (CASA DE LAS AMERICAS)
- 1-New York (100-88690) [redacted]
- 1-New York (100-181836) [redacted]
- 1-New York (100-86236) [redacted]
- 1-New York [redacted] (MICHAEL RATNER)
- 1-New York (100-94163) [redacted]
- 1-New York (100-146611) [redacted]
- 1-New York [redacted]
- 1-New York (100-176208) [redacted]
- 1-New York (70-4075) [redacted]
- 1-New York (100-136886) [redacted]
- 1-New York [redacted]
- 1-New York (100-166943 (VENCEREMOS BRIGADE)) [redacted]

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b7E  
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AC:cd  
(29)  
cd # 44

*Sf 8512/mj/7/82*

213  
8/18/95

[redacted]

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~~CONFIDENTIAL~~

Many of the publications in the library were in Spanish. Almost all were adulatory of Castro and the Cuban Revolution. Theodore Draper's works stood out like a sore thumb. A great many of the publications and periodicals were officially from the Cuban government and fronts, inside and outside of Cuba. In the current periodicals area there was literature from the North American Committee on Latin America (NACLA) a front for the Trotskyite Socialist Workers Party (SWP), the Chile Solidarity Committee (156 Fifth Ave., Room 1001, NYC 10010 [212] 691-9025) a Communist Party front, the National Lawyers Guild (a recruiting brochure), the Cuba Resource Center Newsletter P.O.Box #206, Cathedral Station, NYC 10025 (which "is funded by Protestant and Roman Catholic Church groups" and follows a Castroite line), and Venceremos the publication of the Venceremos Brigade, GPO Box #3169, New York but published by the Salsedo Press, Chicago, labor "donated." Lying around were copies of the Daily World (CPUSA) and Osawatomie (Weather Underground).

The publications of the Cuban Center are filled with appeals to join the Center (\$15 per year) and get their publications as well as to volunteer.

An article in Venceremos on the "People's Salute to Cuba" held at the Manhattan Center July 24 and 25 (and 14 other cities) stated that "all proceeds (raised the first evening are) going to the organizing of the International Conference of Solidarity with Puerto Rico being held in Havana in September." (Venceremos Vol. II, #9, July 1975 p.3). At the People's Salute in New York there was a Puerto Rican cultural group that participated (called Cemi) from Hartford, Connecticut. Also representatives of the Hey Brother Coffee House and the Musicians Action Collective, but I am not sure where they are located.

The Committee for July 26 (GPO #3169, NYC 10001 [212]255-0787) which sponsored the People's Salute held a lawyers press conference on July 3rd to protest the denial by the State Department of a visa to Cuban Communist Dr. Melba Hernandez so that she could speak in New York. Attending were Hernandez' attorney Michael Ratner (a member of the 80 man Board of Directors of the New York City Chapter of the National Lawyers Guild elected this spring), Leonard Boudin Chief Council of the National Emergency Civil Liberties Committee, Stanley Faulkner of the International Association of Democratic Lawyers (the Soviet sponsored International lawyers organization to which the National Lawyers Guild is affiliated), Arthur Kinoy of the Rutgers Univ. Law School and also a member of the NYC NLG Bd. of Directors, William Kunstler of the Law Center for Constitutional Rights,

[redacted] recently elected [redacted]

[redacted] and [redacted]

b6  
b7c

(page two of three)

~~CONFIDENTIAL~~

*Handwritten initials*

TO: SAC:

- Albany
- Albuquerque
- Alexandria
- Anchorage
- Atlanta
- Baltimore
- Birmingham
- Boston
- Buffalo
- Butte
- Charlotte
- Chicago
- Cincinnati
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit
- El Paso
- Honolulu

- Houston
- Indianapolis
- Jackson
- Jacksonville
- Kansas City
- Knoxville
- Las Vegas
- Little Rock
- Los Angeles
- Louisville
- Memphis
- Miami
- Milwaukee
- Minneapolis
- Mobile
- Newark
- New Haven
- New Orleans
- New York City
- Norfolk

- Oklahoma City
- Omaha
- Philadelphia
- Phoenix
- Pittsburgh
- Portland
- Richmond
- Sacramento
- St. Louis
- Salt Lake City
- San Antonio
- San Diego
- San Francisco
- San Juan
- Savannah
- Seattle
- Springfield
- Tampa
- Washington Field
- Quantico

TO LEGAT:

- Bern
- Bonn
- Brasilia
- Buenos Aires
- Caracas
- Hong Kong
- London
- Madrid
- Manila
- Mexico City
- Ottawa
- Paris
- Rome
- Tel Aviv
- Tokyo

JUL 26 1976

RE:

Date \_\_\_\_\_

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07-11-2017 BY J36355T41 ADG

- For information     Retention optional     For appropriate action     Surep, by \_\_\_\_\_
- The enclosed is for your information. If used in a future report,  conceal all sources,  paraphrase contents.
- Enclosed are corrected pages from report of SA \_\_\_\_\_ dated \_\_\_\_\_

Remarks:

*RE: MEX LET 7/26/73*  
*CAPTIONED MICHAEL DAVID RATNER*  
*(rec NY)*

Enc. \_\_\_\_\_  
Bufile \_\_\_\_\_  
Urfile \_\_\_\_\_

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SEARCHED <i>[initials]</i>	INDEXED <i>[initials]</i>
SERIALIZED <i>[initials]</i>	FILED <i>[initials]</i>
46 JUL 26 1976	
FBI-NEW YORK	

FEDERAL BUREAU OF INVESTIGATION  
FOI/PA  
DELETED PAGE INFORMATION SHEET  
FOI/PA# 1350891-0

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Page 2 ~ Duplicate;

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- Page 8 ~ Duplicate;
- Page 9 ~ Duplicate;
- Page 10 ~ Duplicate;
- Page 11 ~ Duplicate;
- Page 12 ~ Duplicate;
- Page 13 ~ Duplicate;

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DOCUMENTO IMPORTANTE. NO LO PIERDA.  
IMPORTANT DOCUMENT. DO NOT LOSE IT.  
DOCUMENT IMPORTANT. NE L'EGAREZ PAS

221 N° 2584615

**CUBANA**  
465

APELLIDOS SURNAMES NOMS DE FAMILLE **RATNER, MICHAEL D.** NOMBRE FIRST NAME PRENOM

SEXO SEXE  MASC  FEM EDAD AGE **30** SOLTERO(A) SINGLE CELIBATAIRE  CASADO(A) MARRIED MARIEE  DIVORCIADO(A) DIVORCED DIVORCEE  VIUDO(A) WIDOWED VEUF,VE

OCCUPACION OCCUPATION **ABOGADO**

PLAZO PARA INTERNARSE A TIME GIVEN TO ENTER **México** LUGAR DE NACIMIENTO PLACE OF BIRTH **Cleveland, Ohio EUA**

**14 de Septiembre de 1973** NACIONALIDAD ACTUAL PRESENT NATIONALITY **NORTAMERICANO**

DOMICILIO PERMANENTE PERMANENT ADDRESS **299 Riverside Dr. New York, New York EUA**

PASAPORTE PASSPORT **Nort. de Macirán** EXPEDIDO EN / DELIBRE AT

AUTORIZADO PARA PERMANECER EN EL PAIS AUTHORIZED TO REMAIN IN MEXICO **180** DIAS A PARTIR DE LA FECHA DE ENTRADA DAYS FROM DATE OF ENTRY

DESTINO PRINCIPAL EN LA REPUBLICA MEXICANA MAIN DESTINATION IN THE MEXICAN REPUBLIC **MEXICO CITY**

MEDIO DE TRANSPORTE MEANS OF TRANSPORTATION **1 2 3 4 5 7** OTROS OTHERS

PARA USO OFICIAL / FOR OFFICIAL USE / OFFICIEL

\* AUTORIZACION PERMIT **N°** SECRETARIA DE GOBERNACION **444** DE FECHA DATE **14 JUN. 1973**

ENTRADA

**1169 AMERICANO 1169**

SALIDA **JUN 18 1973** UD. SALE DEL PAIS CON DESTINO A: YOUR DESTINATION IS: **ILL**

MEDIO DE TRANSPORTE MEANS OF TRANSPORTATION **1 2 3 4 5 7**

SELLO Y FECHA OFNA EXPEDIDORA \* NO DEJE EN BLANCO ESTOS ESPACIOS AL SALIR DEL PAIS. \* DO NOT LEAVE THESE SPACES BLANK UPON DEPARTURE FROM THE COUNTRY. \* NE LAISSEZ PAS EN BLANC CES ESPACES A VOTRE DEPART DU PAYS

SEARCHED... INDEXED...  
SERIALIZED... FILED...  
**JUN 28 1973**  
LEGAL ATTACHE, MEXICO  
*O'Connor*

b3  
b7E

OBSERVACIONES:

FMT



ESTADOS UNIDOS MEXICANOS

SECRETARIA DE GOBERNACION

DIRECCION GRAL. DE POBLACION

ADVERTENCIA

NOTICE

AVERTISSEMENT

- 1.—Es obligatorio presentar este documento al internarse al País y entregarlo a su salida a la Autoridad Migratoria respectiva.
- 2.—Deberá ser usado únicamente por su titular, el cual sólo podrá permanecer en México en calidad de turista el tiempo autorizado, estrictamente prohibido trabajar o dedicarse a cualquier actividad remunerada o lucrativa.

- 1.—It is compulsory to show this document upon entering the country and to surrender it to the proper immigration authority upon leaving.
- 2.—It is to be used only by the undersigned, who may only remain in Mexico as a tourist for the allotted time. It is strictly forbidden for said person to work or to engage in any lucrative or paid activity.

- 1.—Il est obligatoire, pour entrer au pays, de présenter ce document et de le rendre à la sortie aux Autorités Migratoires.
- 2.—Ce document devra être utilisé uniquement par son titulaire, qui ne pourra rester au Mexique que le temps autorisé et seulement en qualité de touriste. Il lui est strictement interdit de travailler ou d'exercer une activité rémunératrice ou lucrative quelconque.

SI POR CAUSAS IMPREVISTAS NO ENTREGO USTED ESTE DOCUMENTO A LAS AUTORIDADES MIGRATORIAS MEXICANAS AL SALIR DEL PAIS, ENVIELO POR CORREO A:  
IF, FOR UNFORESEEN REASONS, YOU HAVE FAILED TO HAND THIS DOCUMENT OVER TO THE MEXICAN IMMIGRATION AUTHORITIES UPON LEAVING THE COUNTRY, MAIL IT TO THE FOLLOWING ADDRESS:

S. PAR HASARD CETTE DOCUMENTATION N'A PAS ETE REMISE AUX AUTORITES MIGRATOIRES MEXICAINES, A LA SORTIE DU PAYS, PRIERE DE L'ENVOYER PAR LA POSTE:

SECRETARIA DE GOBERNACION  
DEPARTAMENTO DE MIGRACION  
AVE. JUAREZ No 92 - 7º PISO • MEXICO, D. F.

Firma del declarante  
Applicant's Signature  
Signature de l'Intéressé



UNITED STATES GOVERNMENT

# Memorandum

TO : LEGAT, MEXICO CITY [redacted] (P)

DATE: 6-28-73

FROM : SA JAMES J. O'CONNOR

SUBJECT: [redacted]  
[redacted]

b3  
b7E  
b6  
b7C

On 6-26-73, [redacted] furnished a manifest for Cubana Airlines flight of 6-15-73, Mexico City to Havana, reflecting that 14 U. S. citizens traveled via this flight to Cuba. Of these the following nine individuals were indicated to be traveling together in a party:

b7D

[redacted]

b6  
b7C

MICHAEL DAVID RATNER

[redacted]

2 - [redacted]  
2 - [redacted]  
2 - [redacted]  
2 - [redacted]  
2 - [redacted]  
2 - [redacted]

b3  
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b7C

(MICHAEL DAVID RATNER)

2 - [redacted]  
2 - [redacted]  
2 - [redacted]  
2 - [redacted]  
2 - [redacted]

100-2807 [redacted]

2 - [redacted]  
2 - [redacted]

[redacted]

SEARCHED [initials] INDEXED [initials]  
SERIALIZED [initials] FILED [initials]  
JUN 29 1973  
LEGAL ATTACHE - MEXICO  
H. O'Connor [initials]

ms



Memorandum



To : ASAC, [redacted] (100A-182859  
SUB B)

Date 8/20/88

From : SA [redacted]

b6  
b7C  
b7E

Subject : [redacted]

RE Insert dated 8/12/88, re telephone call from MICHAEL RATNER, attorney at Center for Constitutional Right.

On 8/15/88, MICHAEL RATNER, an attorney working at the CENTER FOR CONSTITUTIONAL RIGHT, 666 Broadway, NYC, con-  
tacted this Squad and advised that his clients, [redacted]  
[redacted] are not willing to be interviewed  
by the FBI [redacted]

b6  
b7C

RATNER did not communicate with writer, nor with SA  
[redacted] who were the agents' who attempted to conduct  
said interview.

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b7C

AR:ar  
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~~INDEX~~  
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100A-182859 sub B-

-192

SEARCHED	INDEXED
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AUG 20 1988	
FBI - NEW YORK	

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[Redacted box]

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PP NY WF

DE HQ 0009 3431816

ZNY SSSSS

P 081630Z DEC 80

FM DIRECTOR FBI

TO FBI NEW YORK PRIORITY

FBI WASHINGTON FIELD (PRIORITY)

BT

~~SECRET~~

KLAUS FRITZ CROISSANT; [REDACTED] OO: NEW YORK.

ON DECEMBER 3, 1980, U.S. DEPARTMENT OF STATE, SECURITY OFFICE, ADVISED CROISSANT, A CONVICTED GERMAN TERRORIST HAS APPLIED FOR V-2 VISA TO VISIT FRIENDS. CROISSANT'S CONVICTION WAS RELATED TO HIS DEALINGS WITH THE RED ARMY FACTION. CROISSANT IS AN ATTORNEY BORN MAY 24, 1931, AT KIRCHEIM/TECK, GERMANY. (U) STATE DEPT. INDICATES THAT VISA WILL, IN ALL PROBABILITY, BE DENIED BASED ON CROISSANT'S PAST CONVICTION, HOWEVER, THE VISA COULD POSSIBLY BE APPROVED IF THIS BUREAU OR GERMAN AUTHORITIES REGARDED CROISSANT'S TRAVEL TO THE U.S. AS ADVANTAGEOUS IN ATTEMPTING TO DETERMINE GERMAN/U.S. CONTACTS OF CROISSANT. (U)

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(U)

LEGAT BONN HAS IDENTIFIED MICHAEL DAVID RATNER, BORN JUNE 13, 1943, IN OHIO AS CROISSANT'S CONTACT IN THE U.S. RATNER RESIDES AT 124 WASHINGTON PLACE, NEW YORK, NEW YORK, AND IS STAFF ATTORNEY FOR THE CENTER FOR CONSTITUTIONAL RIGHTS, 353 BROADWAY, 14TH FLOOR, NEW YORK, NEW YORK. RATNER BELIEVED IDENTICAL TO [REDACTED] (U)

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WFO REQUESTED TO ESTABLISH LIAISON WITH U.S. DEPT. OF STATE TO DETERMINE IF VISA IS GRANTED AND DATES OF CROISSANT'S PROPOSED TRAVEL. (U)

NY IS REQUESTED TO PROVIDE CROISSANT'S VISIT APPROPRIATE COVERAGE IF VISA IS GRANTED. (U)

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**DO NOT DESTROY - PENDING LITIGATION**

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